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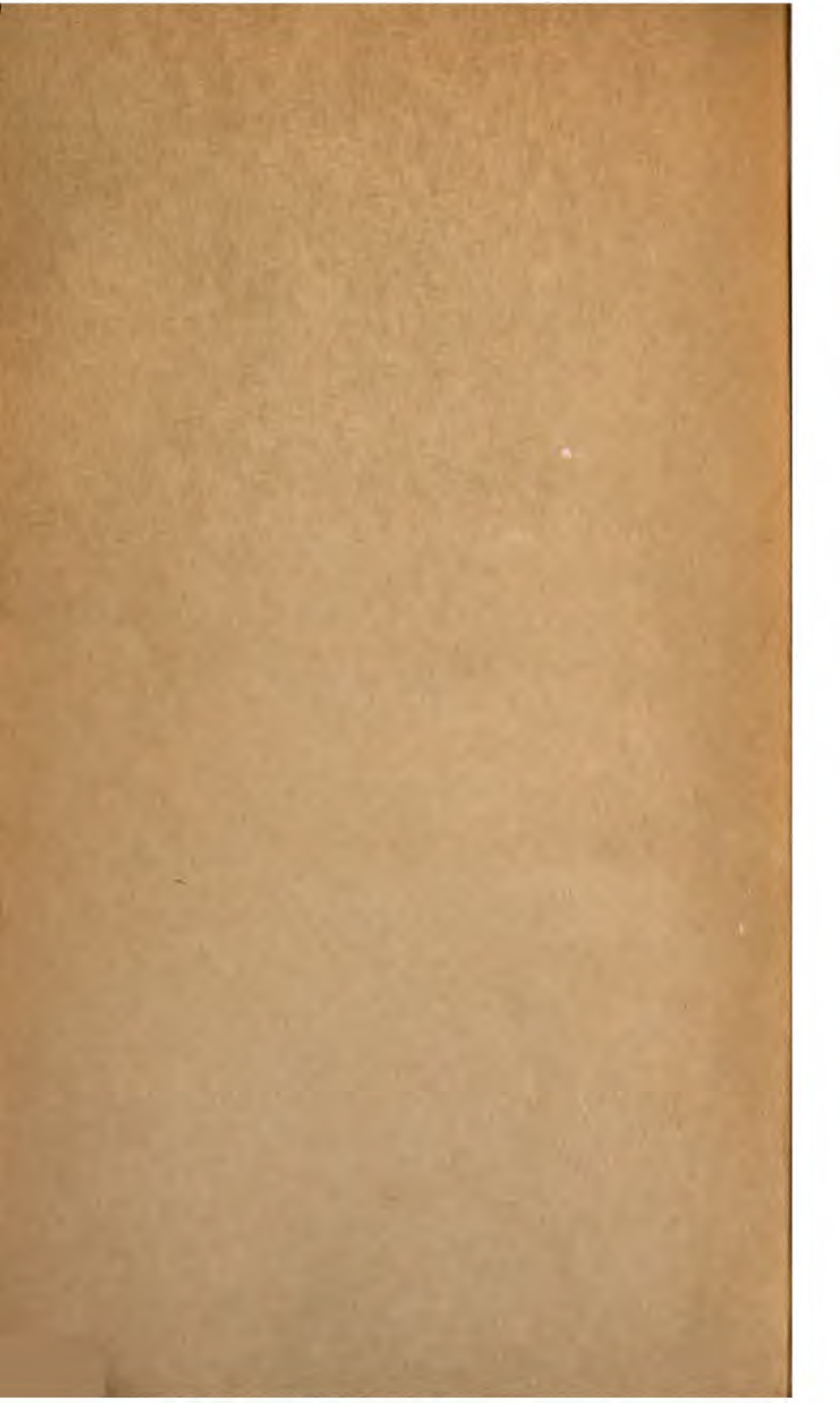
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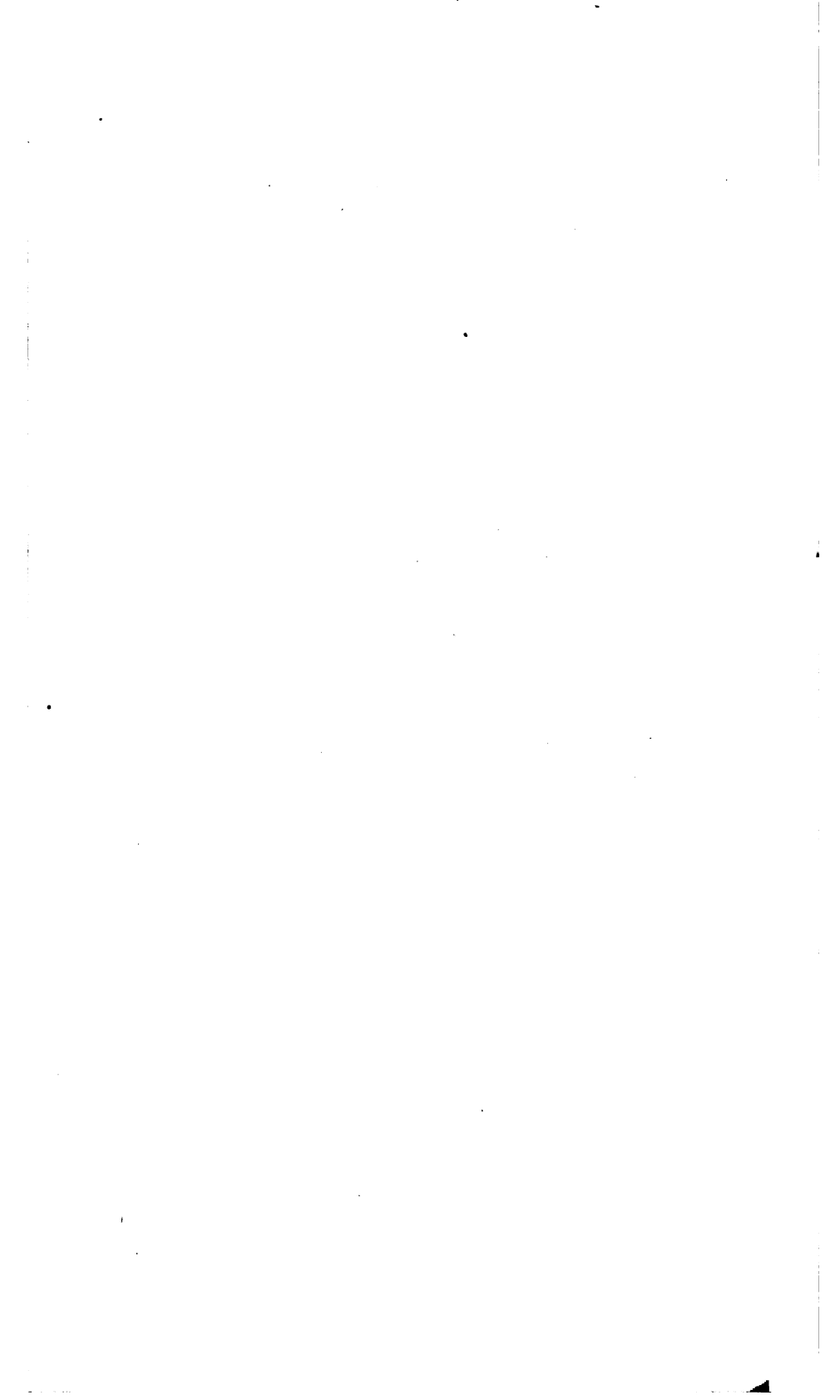
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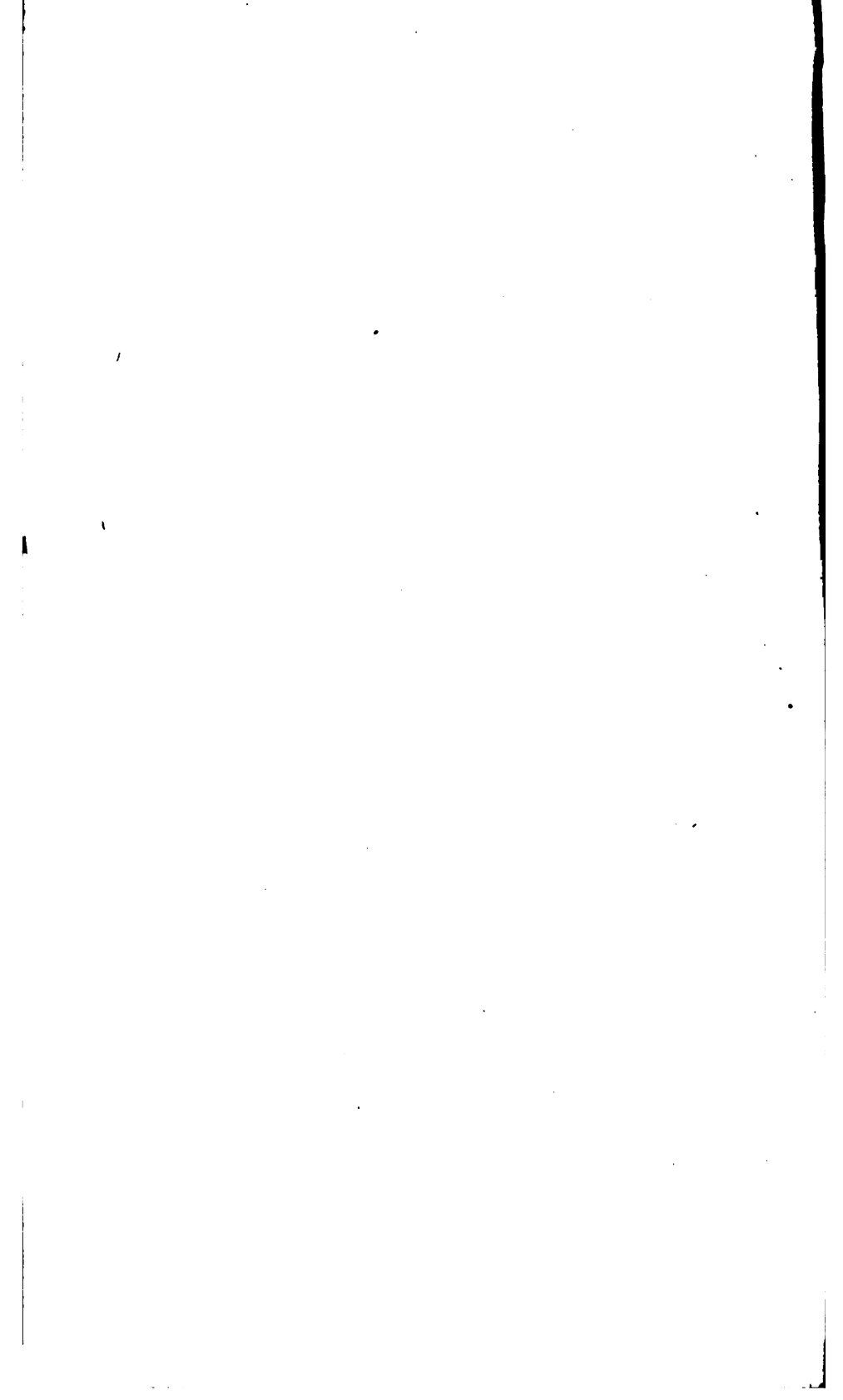


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*New York State Laws, Statutes  
Insurance Law*

# GENERAL STATUTE LAWS

OF THE

STATE OF NEW YORK

RELATING TO

FIRE, MARINE, LIFE AND CASUALTY

INSURANCE COMPANIES,

AND

MISCELLANEOUS INSURANCE LAWS.

COMPILED BY

WILLIAM BARNES,

SUPERINTENDENT OF THE INSURANCE DEPARTMENT.

0

SECOND EDITION,

PREPARED BY

GEORGE WOLFORD, DEPUTY SUPERINTENDENT.

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EXTRACT FROM THE  
CONSTITUTION OF THE STATE OF NEW YORK,

Adopted November 3d, A. D. 1846.

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ARTICLE VIII.

§ 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts, passed pursuant to this section, may be altered from time to time, or repealed.

Corporations, how created.  
26 Barb., 687.  
30 Barb., 119.  
16 Barb., 188.  
15 Barb., 687.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators, and other means as may be prescribed by law.

Debts of corporations.

§ 3. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

"Corporations" defined.  
14 Barb., 559.  
6 Paige, 554.  
1 Barb. Ch., 547.



## EXTRACT FROM THE REVISED STATUTES

### IN RELATION TO

#### **Applications to the Legislature for Acts of Incorporation, Amendments, &c.**

§ 2. Every association intending to apply to the Legislature for an act of incorporation, and every corporation intending to apply for an alteration, amendment, or extension of its charter, shall cause the like notice of such application to be published in the State paper, and also in a newspaper printed in the county in which such corporation is intended to be, or shall have been established. [*Laws of 1818, p. 121; and Revised Statutes, part I, chap. VII, title 3, § 2. Vol. I, p. 154, Edmonds' edition.*]

Certain applicants to give notice to Legislature.

§ 4. If the application be for an act of incorporation, the notice shall specify the amount of the capital stock requisite to carry the objects of such incorporation into effect; and if the application be for an alteration in any charter already granted, the notice shall state specifically the alteration intended to be applied for. [*Laws of 1818, p. 121; and Revised Statutes, part I, chap. VII, title 3, § 4. Vol. I, p. 154, Edmonds' edition.*]

Contents of notice.



# LAWS RELATING TO THE INSURANCE DEPARTMENT.

## Chap. 366.

AN ACT TO ESTABLISH AN INSURANCE DEPARTMENT, passed April 15, 1859 (three-fifths being present); with amendments and additions to January 1st, 1866.

SECTION 1. Separate Insurance Department established.

2. Title of Chief Officer; how appointed; term of office; salary; deputy and clerks; official bond, &c.
3. Powers and duties of the Superintendent; annual reports; number to be printed.
4. Official seal and certificates; certificates, when to be received in evidence and recorded.
5. Books and papers to be transferred from office of Secretary of State and Comptroller.
6. Rooms in the State Hall to be assigned to the Superintendent.
7. Fees; expenses of Department; assessment in certain cases.
8. Deposit of securities and payment of fees, fines, taxes, &c., required of other States in certain cases.
9. Repealing section.
10. When act to take effect.

[The original numbering of the sections of this act is retained within brackets.]

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. There is hereby established a separate and distinct department, which shall be charged with the execution of the laws heretofore passed, or that may be hereafter passed, in relation to, insurance.  
[Laws of 1859, chap. 366, § 1.]

Separate  
Insurance  
Depart-  
ment estab-  
lished.



Name of  
officer.

Superin-  
tendent,  
how ap-  
pointed.

His salary.

Clerks and  
their com-  
pensation.

Deputy  
Superin-  
tendent.

His powers  
and duties.

Official  
oath of  
Superin-  
tendent and  
Deputy.

Official  
bond of  
Superin-  
tendent.

Powers of

§ 2. The chief officer of said department shall be denominated the Superintendent of the Insurance Department. He shall be appointed by the Governor, by and with the advice of the Senate, and shall hold his office for the term of three years. He shall receive the same annual salary as the Superintendent of the Bank Department, to be paid quarterly. He shall employ, from time to time, the necessary clerks to discharge such duty as he shall assign them, whose compensation shall be paid to them monthly, on his certificate, and upon the warrant of the Comptroller. He shall appoint one of the said clerks to be his Deputy, who shall possess the powers, and perform the duties attached by law to the office of principal, during a vacancy in such office, and during the absence or inability of his principal. Within fifteen days from the time of notice of their appointment, respectively, the Superintendent and his Deputy shall take and subscribe the oath of office prescribed by the Constitution, and file the same in the office of the Secretary of State, and the said officers shall be in all respects subject to the provisions of the sixth title of chapter five of the first part of the Revised Statutes, so far as the same may be applicable; and the said Superintendent of the Insurance Department shall give to the people of the State of New York a bond in the penalty of ten thousand dollars, with two sureties, to be approved of by the Comptroller, conditioned for the faithful discharge of the duties of his office; and the said Superintendent shall not, either directly or indirectly, be interested in any insurance company. [*Laws of 1859, chap. 366, § 2, as amended by Laws of 1861, chap. 326, § 1.*]

§ 3. The Superintendent of the Insurance Depart-

ment shall possess all the powers, perform all the duties, and be subjected to all the obligations and penalties now conferred by law upon the Comptroller of this State, or to which the Comptroller is subject in relation to insurance companies and the formation thereof, under the laws relating thereto, so that every power and duty thereby conferred on the Comptroller shall, from and after the appointment of such Superintendent, be transferred to and conferred upon the said Superintendent. In addition to the requirements of the Laws of eighteen hundred and fifty-three, relating to the annual reports relative to Insurance, the Superintendent shall be required to report the names and compensation of the clerks employed by him, and the whole amount of expenses of the department during the year; such report shall be made by or before the first day of March, and fifteen hundred copies for the use of the Superintendent, and the usual number of copies for the use of the Legislature, shall be printed by the printer employed to print legislative documents. [*Laws of 1859, chap. 366, § 3.*]

Superintendent of Insurance Department.

Annual reports.

Number of copies of report to be printed.

§ 4. The said Superintendent, with the approval of the Governor, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of the State, with an impression thereof, which seal shall thereupon be and become the seal of office of the Superintendent of the Insurance Department, and the same may be renewed whenever necessary. Every certificate, assignment or conveyance executed by the said Superintendent, in pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received as evidence, and may be

Official seal

Certificates, &c., to be received as evidence and recorded.

recorded, in the proper recording offices, in the same manner and with the like effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds; and all copies of papers in the office of the said Superintendent, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of said seal directly on paper shall be as valid as if made on a wafer or wax. [*Laws of 1859, chap. 366, § 4.*]

Books, papers, &c., in office of Comptroller and Secretary of State to be transferred to Superintendent of Insurance Department

§ 5. All books, papers and documents, securities, stocks, bonds and mortgages, and all other papers whatever in the Comptroller's office, and in the office of the Secretary of State, relating to the business of insurance, shall, on demand, be delivered and transferred to the Superintendent of the Insurance Department, and be and remain in his charge and custody. [*Laws of 1859, chap. 366, § 5.*]

Rooms assigned to Superintendent.

§ 6. There shall be assigned to the said Superintendent, by the Trustees of the State Hall, suitable rooms therein for conducting the business of said department, and the said Superintendent shall, from time to time, furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business, the expenses of which shall be paid on the certificate of the Superintendent and the warrant of the Comptroller. [*Laws of 1859, chap. 366, § 6.*]

Insurance companies to pay certain fees to Insurance Department.

§ 7. There shall be paid by every company, association, person or persons, or agent, to whom this act shall apply, the following fees towards paying the expenses of executing this act: For filing the declaration now required by law, or the certified copy of a charter also now required, the sum of

thirty dollars ; for filing the annual statement now required, twenty dollars ; for each certificate of authority and certified copy thereof, five dollars ; for every copy of paper filed in his office, the sum of ten cents per folio, and for affixing the seal of said office to such copy and certifying the same, one dollar. In case the expenses of said department shall exceed the amount of fees collected under this act, and paid into the State Treasury (exclusive of the tax upon marine premiums), the excess of such expenses shall be annually assessed by the Superintendent, *pro rata* upon all the stock insurance companies of this State ; and the said Superintendent is hereby empowered to collect such assessments and pay the same into the State Treasury. [*Laws of 1859, chap. 366, § 7, as modified by Laws of 1862, chap. 367, § 5, and by Laws of 1865, chap. 328, § 3.*]

Assessments to be made upon Insurance Companies by Superintendent.

§ 8. Whenever the existing or future laws of any other State, of the United States, shall require of insurance companies incorporated by or organized under the laws of this State, and having agencies in such other State, or of the agents thereof, any deposit of securities in such State for the protection of policy holders, or otherwise, or any payment for taxes, fines, penalties, certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States establishing or having heretofore established an agency or agencies in this State, shall be and are hereby required to make the same deposit for a like purpose in the Insurance Department of this State, and to pay to the Superintendent of said department for taxes, fines, penalties, certificates of author-

Deposit of securities and payment of fees, fines, taxes, &c., required of other States in certain cases.

ity, license fees and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon the companies of this State and the agents thereof.\* [*Laws of 1865, chap. 694, § 1.*]

Repeal.

§ 9. [Sec. 8.] All laws or parts of laws inconsistent with this act are hereby repealed. [*Laws of 1859, chap. 366, § 8.*]

Act to take effect.

§ 10. [Sec. 9.] This act shall take effect on the first day of January next. [*Laws of 1859, chap. 366, § 9.*]

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\* An act entitled "AN ACT in relation to the deposits required to be made, and the taxes, fines, fees and other charges, payable by insurance companies of sister States," passed May 11, 1865, three-fifths being present.

# LAWS RELATING TO

## FIRE INSURANCE COMPANIES.

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### Chap. 466.

AN ACT TO PROVIDE FOR THE INCORPORATION OF  
FIRE INSURANCE COMPANIES; passed June 25,  
1853 (with amendments and additions to January  
1, 1866).

- SECTION 1. Corporations may be formed; their purposes.
2. Powers of inland navigation insurance companies.
  3. Powers of insurance companies hereafter incorporated.
  4. Power to re-insure risks taken.
  5. Declaration to be filed in office of the Superintendent of the Insurance Department; its contents; notice to be published.
  6. Charter comprised in declaration; what to contain.
  7. Companies not to deal in goods, wares, &c.; exception.
  8. No joint-stock or mutual company to be formed, unless on complying with certain provisions, &c.
  9. Books of subscription to be opened.
  10. Investments of capital and surplus funds of companies, in bonds, mortgages and stocks.
  11. Real estate not to be purchased, held or conveyed by companies, except for certain purposes.
  12. Time for selling real estate may be extended.
  13. The charter, &c., to be examined by Attorney-General; examination as to capital to be made by Superintendent of the Insurance Department or by three Commissioners; certificates, &c.
  14. Corporators, &c., to have power to make certain by-laws; common seal.
  15. Dividends to be made from surplus profits; penalty for improperly declaring dividends.
  16. Notes to be held as security for losses in mutual fire insurance companies, until what time; directors to determine amount of note to be given in addition to cash premium; settlement of losses, &c.
  17. Mutual companies may unite a cash capital to premiums; proviso; joint-stock company may allow the insured to participate in the profits; scrip may be issued; redemption thereof, &c.

## FIRE INSURANCE LAWS

SECTION 18. Word "Mutual" to appear on first page of every policy, &c., of mutual companies, and "Stock," on policies of cash stock companies.

19. Suits may be maintained by stockholders against corporation, &c.; members not parties may be witnesses.

20. Trustees, corporators, &c., to be responsible for debts in certain cases, &c.

21. Existing joint-stock companies may reorganize under general act; mutual, may become joint-stock companies; mutual companies may extend term of their charters; proceedings thereon.

22. Capital of companies may be increased; proceedings thereon.

23. Companies formed under act of April 10, 1849, brought under this act; exceptions.

24. Companies formed under this act, bodies corporate and politic, and subject to Revised Statutes, &c.

25. Annual statement to be made by company to Superintendent of the Insurance Department; its contents; annual report of the Superintendent to the Legislature, &c.

26. Fire insurance corporations of other States and foreign countries not to take risks, &c., unless they comply with certain provisions; penalty for violation of provisions of section; definition of term agent.

27. Foreign insurance companies to make annual statements.

28. Penalty for failure to make annual statements.

29. When annual statements of foreign companies to be made and filed.

30. Superintendent of the Insurance Department may appoint one or more persons to make examinations; duties and powers of such persons; duty of the Superintendent and of the Attorney-General, &c.

31. Penalties, how sued for and recovered.

32. Length of charters; power of Legislature to repeal acts and dissolve companies.

33. Fees to be paid to county clerk.

34. Act of April 10, 1849, repealed as to fire and inland navigation insurance; exception.

35. When act to take effect; exception as to companies whose officers have complied with law of 1849, &c.

36. Declarations filed under act of April 10, 1849, sufficient.

37. Insurance companies may have lien upon the stock or certificates of profit of members.

[The original numbering of the sections of this act is retained within brackets.]

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Corporations may be formed.  
81 Barb., 176

§ 1. Any number of persons, not less than thirteen, may associate and form an incorporated company for the following purposes, to wit:

To make insurance on dwelling houses, stores and all kinds of buildings, and upon household furniture

and other property, against loss or damage by fire, and the risks of inland navigation and transportation. [*Laws of 1853, chap. 466, § 1.*]

§ 2. Any and all insurance companies, incorporated under the provisions of the act entitled "An act to provide for the incorporation of insurance companies," passed April tenth, eighteen hundred and forty-nine; or under the provisions of the act entitled "An act to provide for the incorporation of fire insurance companies," passed June twenty-fifth, eighteen hundred and fifty-three; which shall, in the declaration and charter provided to be filed by the third sections of such acts respectively, have expressed an intention to make insurance, or which shall have power to make insurance against loss or damage by the risks of inland navigation or transportation, shall have power to make insurance upon vessels, boats, cargoes, goods, merchandise, freights and other property against loss and damage by all or any of the risks of lake, river, canal and inland navigation and transportation. [*Laws of 1861, chap. 92, § 1.*]

Powers of inland navigation insurance companies.

§ 3. Any insurance company hereafter incorporated under the last of said acts, may have the powers aforesaid, if in its charter it shall express its intent to exercise such powers. [*Laws of 1861, chap. 92, § 2.*]

Inland navigation insurance companies hereafter incorporated.

§ 4. [Sec. 2.] Any company organized under this act, shall have power to effect re-insurance of any risks taken by them respectively. [*Laws of 1853, chap. 466, § 2.*]

To effect re-insurance.

§ 5. [Sec. 3.] Such persons shall file in the office of the Superintendent of the Insurance Department\*

Declaration to be filed and contents thereof.

\* The words, "said Superintendent," or "Superintendent of the Insurance Department," are substituted for "Comptroller" throughout these laws, in accordance with the provisions of chap. 366, Laws of 1859.



a declaration, signed by all the corporators, expressing their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such their intention, once in each week, for at least six weeks, in a public newspaper in the county in which such insurance company is proposed to be located. [*Laws of 1853, chap. 466, § 3.*]

Charter,  
what to  
contain.

§ 6. [Sec. 4.] The charter comprised in such declaration, shall set forth the name of the company; the place where the principal office for the transaction of its business shall be located; the mode and manner in which the corporate powers granted by this act are to be exercised; the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this State; and of filling vacancies (but each director of a stock company shall be the owner in his own right of at least five hundred dollars worth of the stock of such company, at its par value); the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business; and the Superintendent of the Insurance Department shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect. [*Laws of 1853, chap. 466, § 4.*]

Company  
not to deal  
in goods,  
wares, &c.

§ 7. [Sec. 5.] No company formed under this act shall directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise, or other commodities whatever, excepting such articles as may have been insured by any company, and are

claimed to be damaged by fire or water. [*Laws of 1853, chap. 466, § 5.*]

§ 8. [Sec. 6.] No joint-stock company shall be incorporated under this act in the city and county of New York, nor in the county of Kings, nor shall any company incorporated under this act establish any agency for the transaction of business in either of said counties, with a smaller capital than two hundred thousand dollars, nor in any other county in this State with a smaller capital than fifty thousand dollars; nor shall any company formed for the purpose of doing the business of fire or inland navigation insurance, on the plan of mutual insurance, commence business, if located in the city of New York or in the county of Kings, nor establish any agency for the transaction of business in either of said counties, until agreements have been entered into for insurance with at least four hundred applicants, the premiums on which shall amount to not less than two hundred thousand dollars, of which forty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for insurance, shall have been received for the remainder; nor shall any mutual insurance company in any other county of the State commence business until agreements have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than one hundred thousand dollars, of which twenty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for insurance, shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars; and no

Joint-stock company not to be formed in N. Y. city, nor in county of Kings, unless complying with certain provisions.

Mutual insurance companies, &c., to commence business only on compliance with certain conditions.

two shall be given for the same risk, or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars ; nor shall any such note be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in part or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace or supervisor of the town or city where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same, and no such note shall be surrendered during the life of the policy for which it was given. No fire insurance company organized under this act or transacting business in this State, shall expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent of its paid up capital. [*Laws of 1853, chap. 466, § 6, as amended by Laws of 1854, chap. 369, § 1, and by Laws of 1862, chap. 367, § 1.*]

Restriction.

Books of subscription to be opened.

§ 9. [Sec. 7.] It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and charter, as required by the third section of this act, and also on filing in the office of the Superintendent of the Insurance Department proof of such publication, by the

affidavit of the publisher of such newspaper, his foreman or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements in the manner and to the extent specified in the sixth section of this act. [*Laws of 1853, chap. 466, § 7.*]

§ 10. [Sec. 8.] It shall be lawful for any fire insurance company organized under this act, or incorporated under any law of this State, to invest its capital, and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unincumbered improved real estate within the State of New York, worth fifty per cent more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policy transferred to said company, and also in the stocks of this State or stocks or treasury notes of the United States, and also in the stocks and bonds of any county or incorporated city in this State, authorized to be issued by the Legislature, and to lend the same or any part thereof, on the security of such stocks or bonds, or treasury notes, or upon bonds and mortgages as aforesaid, and to change and reinvest the same as occasion may from time to time require; but any surplus money over and above the capital stock of any such fire and inland navigation insurance companies, or any fire insurance companies incorporated under any law of this State, may be invested in, or loaned upon the pledge of the public stock or bonds of the United States, or any one of the States, or the stocks, bonds

Capital and surplus funds of companies may be invested in bonds and mortgages on real estate, and in United States, State, city and county stocks.

Investment of surplus above capital stock, in United States and State stocks, &c.

or other evidences of indebtedness of any solvent dividend-paying institutions incorporated under the laws of this State or of the United States, except their own stock, provided, always, that the current market value of such stocks, bonds and other evidences of indebtedness, shall be at all times, during the continuance of such loans, at least ten per cent more than the sum loaned thereon. [*Laws of 1853, chap. 466, § 8, as amended by Laws of 1862, chap. 367, § 2, and by Laws of 1864, chap. 563, § 1.*]

Real estate  
not to be  
held, except  
for certain  
purposes  
and in a cer-  
tain man-  
ner.

§ 11. [Sec. 9.] No company organized by or under this act shall purchase, hold or convey real estate, excepting for the purposes and in the manner herein set forth, to wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for money due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due; or,

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any such company to purchase, hold or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired, as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Superintendent of the Insurance Department, that the interests of the company will suffer materially by a forced sale thereof, in which event the sale may be

postponed for such a period as the said Superintendent shall direct in said certificate; and the said Superintendent may also give such certificate and extend the time for holding real estate, in the like circumstances, on the application of any insurance company heretofore incorporated. [*Laws of 1853, chap. 466, § 9.*]

§ 12. The time within which any fire insurance company of this State may sell and convey real estate now held or owned by it is hereby extended five years from the passage of this act. [*Laws of 1864, chap. 563, § 3.*]

Extension  
of time for  
selling real  
estate.

§ 13. [Sec. 10.] The charter and proof of publication herein required to be filed by every such company shall be examined by the Attorney-General, and, if found conformable to this act and not inconsistent with the Constitution or laws of this State, shall be certified by him to the Superintendent of the Insurance Department, who shall thereupon cause an examination to be made, either by himself or by three disinterested persons specially appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the eighth section of this act; or, if a mutual company, that it has received and is in actual possession of the capital, premiums or *bona fide* engagements of insurance, or other securities, as the case may be, to the full extent and of the value required by the sixth section of this act; and the name and the residence of the maker of each premium note forming part of the capital, and the

Attorney-  
General to  
examine  
charter, &c.  
40 Barb.,  
499.

Examina-  
tion by Su-  
perintend-  
ent or Com-  
missioners.

amount of such note, shall be returned to the said Superintendent; and the corporators or officers of such company shall be required to certify, under oath, that the capital exhibited to those persons is *bona fide* property of the company. Such certificates shall be filed in the office of the said Superintendent, who shall thereupon deliver to such company a certified copy of the charter and of said certificates, which, on being filed in the office of the clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of the charter and of said certificates may be used in evidence for or against said company, with the same effect with the originals. [*Laws of 1853, chap. 466, § 10.*]

Directors  
to make  
by-laws.

§ 14. [Sec. 11.] The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the Constitution or laws of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure. [*Laws of 1853, chap. 466, § 11.*]

Common  
seal.

Restric-  
tions on  
dividends.

§ 15. [Sec. 12.] It shall not be lawful for the directors, trustees or managers of any fire insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums, and also there shall be reserved all sums due the corporation on bonds and mortgages, bonds, stocks and book accounts, of which no part of

Risks not  
matured.

the principal or the interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid, and also there shall be reserved all interest due or accrued and remaining unpaid: *provided*, always, that any company may declare dividends not exceeding ten per cent on its capital stock, in any one year, that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company, to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided. This section shall not apply to the declaration of scrip dividends by participating companies; but no such scrip dividends shall be paid, except from surplus profits, after reserving all sums as above provided, including the whole amount of premiums on unexpired risks. [*Laws of 1853, chap. 466, § 12, as amended by Laws of 1862, chap. 367, § 3; by Laws of 1864, chap. 563, § 2, and by Laws of 1865, chap. 199, § 1.*]

Reservations.

Penalty for improperly declaring dividend.

§ 16. [Sec. 13.] All notes deposited with any mutual insurance company at the time of its organization, as provided in section six, shall remain as security for all losses and claims until the accumulation of the profits, invested as required by the eighth section of this act, shall equal the amount of cash capital

Notes to remain as security.  
41 Barb., 151.  
37 Barb., 596.  
36 Barb., 210.



25 Barb.,  
112.  
21 Barb.,  
221.  
25 How., 88.

required to be possessed by stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses, as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall see fit or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount

Persons effecting insurance in mutual companies to become members thereof.

Directors to determine amounts to be paid by members.

of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit; but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay, for any loss occasioned by fire or inland navigation, more than the whole amount of his deposit note. [*Laws of 1853, chap. 466, § 13, as amended by Laws of 1854, chap. 369, § 3.*]

When members may be sued.

§ 17. [Sec. 14.] It shall be lawful for any mutual insurance company, established in conformity with the provisions of this act, to unite a cash capital to any extent, as an additional security to its members, over and above their cash premiums and premium notes; *provided*, that such cash capital shall not be less than thirty thousand dollars, and which additional cash capital shall be loaned and invested as provided in the eighth section of this act; and the company may allow an interest on such cash capital, and a participation in its profits, and prescribe the liability of the

To unite cash capital as additional security.

owner or owners thereof to share in the losses of the company, and such cash capital shall be liable as the capital stock of the company in the payment of its debts; *provided*, that such cash capital shall in all cases be paid in at the organization of the company, and satisfactory evidence of that fact furnished to the Superintendent of the Insurance Department.

Insured  
may partici-  
pate in  
profits.

Any existing joint-stock fire insurance company, and any company formed under this law, may (the written consent of the holders of three-fourths in amount of the stock first being had) permit the insured to participate in the profits of the business of such company, and provide how far any scrip, issued to the insured for such profits, shall be liable for the losses to be sustained; and any company so doing, whenever an amount not less than one hundred thousand dollars has been accumulated and scrip so issued therefor, may, with the written consent of the holders of three-fourths in amount of the stock, pay off and cancel an amount of the original cash capital equal to one-half of the accumulated profits, and so may continue from time to time until the whole amount of the original cash capital is paid off; *provided*, that before any portion of such capital stock shall be so paid off, proof shall be exhibited to the said Superintendent that an amount of accumulated profits has been realized, scrip issued therefor, and investments made thereof, pursuant to the provisions of the eighth section of this act, at least equal to double the amount so desired to be paid off and canceled, and the said Superintendent shall also first certify that he is satisfied with such proof. [*Laws of 1853, chap. 466, § 14.*]

Proviso.

Face of  
policy,  
what to ap-  
pear on.

§ 18. [Sec. 15.] Every fire and inland navigation insurance company hereafter organized shall, if it be a

mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy and renewal receipt; and every company doing business as a cash stock company shall, upon the face of its policy in some suitable manner, express that such policy is a stock policy. [*Laws of 1853, chap. 466, § 15.*]

§ 19. [Sec. 16.] Suits at law may be maintained by any corporation, formed under this act, against any of its members or stockholders for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder against such corporation for any losses which may have accrued, if payment is withheld more than thirty days after such losses may have become due; and any member or stockholder, not individually a party to such suits, may be a witness therein. [*Laws of 1853, chap. 466, § 16.*]

Suits may  
be main-  
tained.

§ 20. [Sec. 17.] The trustees and corporators of any company organized under this act, and those entitled to a participation of the profits of such company, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums under this act, are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company. [*Laws of 1853, chap. 466, § 17.*]

Trustees  
and corpo-  
rators to be  
responsible  
for debts.  
41 Barb.,  
155.

§ 21. [Sec. 18.] Any existing joint-stock fire insurance company heretofore incorporated under the laws of this State, and any company organized under this act, having a capital of at least one hundred and fifty

Joint-stock  
Fire insur-  
ance com-  
panies  
heretofore  
existing  
may avail  
themselves  
of this act.

**Manner of  
proceeding.**

thousand dollars, may, without increasing its capital at any time, within two years previous to the termination of its charter, after giving notice, at least once a week for six weeks successively in a newspaper published in the county where such company is located, of such intention, and with a declaration, under its corporate seal, signed by the president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter to the time specified in the twenty-sixth section of this act, by altering and amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter, with the declaration aforesaid, in the office of the Superintendent of the Insurance Department, whereupon the same proceedings shall be had as are required in the tenth section of this act; and any mutual insurance company, heretofore incorporated or organized under any of the laws of this State, having surplus assets aside from premium and stock notes, sufficient to re-insure all its outstanding risks, after having given notice once a week for six weeks of their intention and of the meeting hereinafter provided for in the State paper, and in a newspaper published in the county where such company is located, may, with the consent of two-thirds of the corporators or members present at any regular annual meeting, or at any special meeting duly called for the purpose, or with the consent in writing of two-thirds of the corporators or members of such company and the consent also of three-fourths of the trustees or directors, unless otherwise provided in the charter, become a joint-stock company, by conforming its charter to and otherwise proceeding in accordance with this act, and every member of such company, on the day of said annual or special meeting, or the date

of said written consent, shall be entitled to priority in subscribing to the capital stock of said company, for one month after the opening of the books of subscription to such capital stock, in proportion to the amount of cash premiums paid in by such members on unexpired risks in force on the day of said annual or special meeting, or the date of said written consent; and every company so extended or changed, shall come under the provisions of this act, in the same manner as if it had been incorporated originally under this act. Every mutual insurance company heretofore incorporated under the laws of this State, and doing business with a capital, in premium notes, of at least fifty thousand dollars, may, at any time, within two years previous to the termination of its charter, without increasing its capital, after giving notice, at least once a week for six weeks successively, in a newspaper published in the county where such company is located, of such intention, and with a declaration, under its corporate seal, signed by its president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter to the time specified in the twenty-sixth section of this act, by altering and amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter, with the declaration aforesaid, in the office of the Superintendent of the Insurance Department, whereupon the same proceedings shall be had as are required in the tenth section of this act, except as to its capital, which shall be certified to be in accordance with the provisions of this section, applicable to the reorganization of mutual insurance companies. Every mutual insurance company so extended shall, except as to the amount of its capital, come under the provisions

Mutual insurance companies heretofore existing may avail themselves of this act.

Manner of proceeding to secure benefit of this act.

of this act, in the same manner as if it had been incorporated originally under this act. [*Laws of 1853, chap. 466, § 18; as amended by the Laws of 1854, chap. 369, § 2, and by the Laws of 1862, chap. 367, § 4.*]

Capital  
may be  
increased.

§ 22. [Sec. 19.] Any existing fire insurance company, and any company formed under this law, may, at any time, increase the amount of its capital stock, after notice given once a week for six weeks in the State paper, and in any newspaper published in the county where such company is located, of such intentions, with the written consent of three-fourths, in amount, of its stockholders, unless otherwise provided in its charter, or if a mutual company, with the unanimous consent of its trustees, unless otherwise provided in its charter, by altering or amending their charter in this respect, and filing a copy of their charter so amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire so to do, with such written consent of three-fourths, in amount, of its stockholders, or the unanimous consent of the trustees as aforesaid to such increase, in the office of the Superintendent of the Insurance Department, and upon the same proceedings being had as are required by the tenth section of this act. [*Laws of 1853, chap. 466, § 19.*]

Companies  
formed  
under act  
of 1849,  
brought  
under this  
act.  
87 Barb.,  
598.  
36 Barb.,  
210.  
31 Barb.,  
116.  
26 Barb.,  
113.

§ 23. [Sec. 20.] Such companies as may have been incorporated or extended under the "Act to provide for the incorporation of insurance companies," passed April 10th, 1849, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts named in their respective charters during the existing term thereof, and are also entitled to all the privileges granted by said charters. [*Laws of 1853, chap. 466, § 20.*]

§ 24. [Sec. 21.] All companies incorporated or extended under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the Revised Statutes, and acts supplemental thereto, in relation to corporations so far as the same are applicable. [*Laws of 1853, chap. 466, § 21.*]

Bodies corporate and politic.

§ 25. [Sec. 22.] It shall be the duty of the president or vice-president and secretary of each company organized under this act, or incorporated under any law of this State, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Superintendent of the Insurance Department, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

To make annual statement of condition of company.

FIRST. The amount of the capital stock of the company.

Contents of annual statement.

SECOND. The property or assets held by the company, specifying :

1. The value, or nearly as may be, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited.

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement.



Contents  
of annual  
statement.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.

8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and the market value.

9. The amount of assessments on stock or premium notes paid and unpaid.

10. The amount of interest actually due and unpaid.

11. The amount of premium notes on hand on which policies are issued.

THIRD. The liabilities of such company, specifying:

1. The amount of losses due and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken.

4. The amount of dividends declared and due, and remaining unpaid.

5. The amount of dividends, either cash or scrip, declared but not yet due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount of all other existing claims against the company.

FOURTH. The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.
2. The amount of notes received for premiums.
3. The amount of interest money received.
4. The amount of income received from other sources.

Contents  
of annual  
statement.

**FIFTH.** The expenditures during the preceding year, specifying :

1. The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement.
2. The amount of dividends paid during the year.
3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company.
4. The amount paid in taxes.
5. The amount of all other payments and expenditures.

The Superintendent of the Insurance Department is hereby authorized and empowered to address any inquiries to any insurance company or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions, and it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries.

Superintendent may address inquiries to companies.

The statement of any company, the capital of which is composed, in whole or in part, of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. The statement herein provided for shall be in lieu of any or all statements now required by any existing law or provision. Every fire insurance company organized under any law of this

When statement to exhibit amount of notes, &c.

Penalty for failing to make

statement,  
and for  
transacting  
business  
after such  
failure.

State failing to make and deposit such statement or to reply to any inquiry of the said Superintendent, shall be subject to the penalty of five hundred dollars; and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance.

Printed  
forms of  
statements  
to be fur-  
nished by  
Superin-  
tendent.

It shall be the duty of the Superintendent of the Insurance Department, to cause to be prepared and furnished to each of the companies, and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated.

Forms may  
be changed.

Informa-  
tion con-  
tained in  
statements  
to be com-  
municated  
to the Leg-  
islature.

It shall be the duty of the Superintendent of the Insurance Department to cause the information contained in the statements required by this section to be arranged in a tabular form, and prepare the same in a single document for printing, which he shall communicate to the Legislature annually. [*Laws of 1853, chap. 466, § 22; as amended by Laws of 1854, chap. 369, § 4.*]

Foreign  
corpora-  
tions not to  
take risks,  
&c., unless  
they com-  
ply with  
certain pro-  
visions.

§ 26. [Sec. 23.] It shall not be lawful for any fire insurance company, association or partnership, incorporated by or organized under the laws of any other State of the United States or any foreign government, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business, as aforesaid, by an agent or agents in this State, shall first appoint an attorney in this State

An attorney  
to be ap-  
pointed.

on whom process of law can be served, and file in the office of the Superintendent of the Insurance Department a certified copy of the vote or resolution of the directors appointing such attorney, which appointment shall continue until another attorney be substituted. In case any such insurance company shall cease to transact business in this State according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State; and service of such process for the causes aforesaid upon any such agent shall be deemed a valid personal service upon such corporation; and also a certified copy of their charter, or deed of settlement, together with a statement under the oath of the president or vice-president and other chief officer, and secretary of the company for which he or they may act, stating the name of the company and place where located; the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents; the amount of real estate, and how much the same is incumbered by mortgage; the number of shares of stock of every kind owned by the company, the par and market value of the same; amount loaned on bond and mortgage; the amount loaned on other security, stating the kind, and the amount loaned on each, and the estimated value of the whole amount of such securities; any other assets or property of the company; also stating the indebtedness of the company, the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment; the amount

Process to be served upon agents last designated.

Certified copy of the charter and statement under oath to be filed.

Contents of statement.

resisted by the company as illegal and fraudulent; and any other claims existing against the company; also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company, whose capital is impaired to the extent of twenty per cent thereof, while such deficiency shall continue; and any company incorporated by or organized under any foreign government shall, in addition to the foregoing, deposit with the Superintendent of the Insurance Department for the benefit and security of policy-holders residing in the United States, a sum not less than two hundred thousand dollars in stocks of the United States or of the State of New York, in all cases to be, or to be made to be equal to a stock producing six per cent per annum, said stocks not to be received by said Superintendent at a rate above their par value, or above their current market value; or in bonds and mortgages on improved unincumbered real estate in the State of New York, worth fifty per cent more than the amount loaned thereon; or in such stocks and securities as now are or which may hereafter be receivable by the Bank Department as security for circulating notes; the stocks and securities so deposited may be exchanged from time to time for other securities receivable as aforesaid, and so long as the company so depositing shall continue solvent and comply with the laws of this State, may be permitted by the said Superintendent to collect the interest or dividends on said deposit; the said deposit shall be in lieu of the investments in the name of trustees as heretofore required, and upon its being duly made either by the transfer of the trust funds or otherwise, the trustees shall thereby be discharged from all

Copy of last annual report to be filed.

Capital to be unimpaired.

Amount and nature of security to be deposited in the Insurance Department.

Securities may be exchanged.

liability ; and where a deposit is made of bonds and mortgages accompanied by full abstracts of title and searches, the fees for an examination of title by counsel to be paid by the party making the deposit, shall not exceed twenty dollars for each mortgage ; and the fees for an appraisal of property shall be five dollars to each appraiser, not exceeding two, besides expenses for each mortgage ; nor shall it be lawful for any agent or agents to act for any company or companies referred to in this section, directly or indirectly, in taking risks or transacting the business of fire or inland navigation insurance in this State, without procuring from the Superintendent of the Insurance Department a certificate of authority stating that such company has complied with all the requisitions of this act which apply to such companies, and the name of the attorney appointed to act for the company ; a certified copy of such certificate of authority, with statement, must be filed by the agent in the office of the clerk of every county where such company has agents, and shall be published in the paper in which the State notices are required to be inserted, four successive times after the filing of such statement as aforesaid, and within thirty days thereafter proof of such publication, by the affidavit of the publisher of such newspaper, his foreman or clerk, shall be filed in the office of the said Superintendent. The statements and evidences of investments required by this section shall be renewed from year to year in such manner and form as may be required by said Superintendent, with an additional statement of the amount of premiums received and losses incurred in this State during the preceding year, so long as such agency continues ; and the said Superintendent, on being satisfied that the capital, securities and invest-

Fees and expenses for examination of title and for appraisal of property.

Agents to procure certificates of authority, and file certified copies thereof and publish the same.

Proof of publication to be filed in office of Superintendent.

Annual statements to be made.

Renewal  
certificates  
to be fur-  
nished by  
Superin-  
tendent.

Fees.

Annual  
statements,  
when to  
be filed.

See sec-  
tions 27, 28,  
and 29, *post*,  
modifying  
this section.

Penalty for  
violation of  
provisions  
of this sec-  
tion.

Place of  
business to  
be pub-  
lished.

ments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid, and the agent or agents obtaining such certificate shall file a certified copy of the same in the office of the clerk of the county in which such agency shall be established, within the month of January; the fees for each certificate of authority and certified copy thereof shall be five dollars. But any company organized under or incorporated by any foreign government may furnish and file such annual statements and evidences in the month of January in each year, made out for the year ending on the preceding thirtieth day of June, if accompanied also by an annual supplementary statement, duly verified by the attorney or general agent of the company in this State, showing the amount of risks written, premiums received, losses sustained and taxes paid in this State for the year ending on the preceding 31st day of December; said supplementary statement shall also contain a description of the investments of such company in this country, and such other information as may be required by the said Superintendent.

Any violation of any of the provisions of this section shall subject the party violating to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to make such publication or to file such affidavits and statements as are herein required. Every agent of any fire insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town or village in which the company is located, and the State or government under the laws of which it is organized.

The term agent or agents, used in this section, shall include an acknowledged agent or surveyor, or any other person or persons, who shall, in any manner, aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of this section shall apply to all foreign companies, partnerships, associations and individuals whether incorporated or not. [*Laws of 1853, chap. 466, § 23; as amended by Laws of 1862, chap. 367, § 5.*]

Term agent defined.

§ 27. All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. [*Laws of 1861, chap. 334, § 1.*]

Foreign companies to make annual statements.

See section 26 *ante*, and section 29, *post*.

§ 28. In case of neglect or refusal to make such annual statement as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnerships or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement as now provided by law. [*Laws of 1861, chap. 334, § 2.*]

Penalty for failure to make annual statements. See section 26, *ante*, and section 29, *post*.

§ 29. Foreign insurance companies shall hereafter be required to make and file their annual statements on the first day of November in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statements of their business

When foreign companies to file their annual statements. See sections 26 and 28 *ante*, which are modified by this section.



and affairs in the United States shall continue to be filed during the month of January, made out for the year ending on the preceding thirty-first day of December. [*Laws of 1865, chap. 199, § 2.*]

Superintendent to appoint one or more persons to make examinations. 40 Barb., 499.

§ 30. [Sec. 24.] It shall be the duty of the Superintendent of the Insurance Department, whenever he shall deem it expedient so to do, to appoint one or more persons, not officers of any fire insurance company doing business in this State, to examine into the affairs of any fire insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers or agents of any such company doing business in this State to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said Superintendent, or person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the business of said company; and whenever the said Superintendent shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this State; and whenever it shall appear to the said Superintendent, from such examination, that the assets of any company incorporated in this State are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, or he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court for an order requiring them to show cause why the business of such com-

Books to be opened for inspection of examiners.

Officers and agents may be examined under oath.

Result of investigation, when to be published.

When deficiency ascertained, proceedings may be had to close up business of company.

pany should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and a distribution of its effects. The Supreme Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. Any company, receiving the aforesaid requisition from the said Superintendent, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said Superintendent shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Superintendent, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. And it is hereby declared that in the event of

When dissolution decreed.

When calls to be made upon stockholders.

Action had on refusal of stockholders to pay amount called for.

Directors to create new stock.

When directors individually liable.

When directors of mutual companies personally liable for losses.

Transfer of stock during investigation, not to release the person transferring same from liability.

When certificates granted in behalf of companies not incorporated by laws of this State, revoked.  
5 Abbott, 444.

any additional losses accruing upon new risks, taken after the expiration of the period limited by the said Superintendent in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if, upon such examination, it shall appear to the said Superintendent that the assets of any company chartered on the plan of mutual insurance under this act are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint-stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said Superintendent for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. And whenever it shall appear to the said Superintendent, from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the State paper for four weeks; and the agent or agents of such company is, after such notice, required to discontinue the issuing of any new policy and the

renewal of any previously issued. [*Laws of 1853, chap. 466, § 24.*]

§ 31. [Sec. 25.] Every penalty provided for by this act shall be sued for and recovered in the name of the people, by the district attorney of the county in which the company or the agent or agents so violating shall be situated, and one-half of said penalty, when recovered, shall be paid into the treasury of said county and the other half to the informer of such violation; and in the case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. Such penalties may also be sued for and recovered in the name of the people, by the Attorney-General, and when sued for and collected by him, shall be paid into the State treasury. [*Laws of 1853, chap. 466, § 25; as amended by Laws of 1862, chap. 367, § 5.*]

Penalties to be sued for by district attorney.

By Attorney-General.

To be paid into State treasury.

§ 32. [Sec. 26.] All companies incorporated or extended under this act may provide, in their charters, for not more than thirty years' duration; but the Legislature may at any time alter, amend or repeal this act, and provide for the closing up of the business and affairs of any company formed under it. Nothing herein contained shall be construed to prevent subsequent extensions of the charters of companies organized or extended under this act. [*Laws of 1853, chap. 466, § 26.*]

Duration of charter.

§ 33. [Sec. 27.] Every county clerk shall demand and receive, for every paper filed in his office, under this act, the sum of ten cents, to be accounted for and paid over to the county treasury, as provided by law with regard to other fees. [*Laws of 1853, chap. 466, § 27, as modified by Laws of 1859, chap. 366, § 7.*]

Fees to be paid county clerks.

Repeal of  
part of act  
of 1849.

§ 34. [Sec. 28.] So much of the act entitled "An act to provide for the incorporation of insurance companies," passed April 10, 1849, as relates to fire and inland navigation insurance is hereby repealed; but such repeal shall not affect or apply to any company or association which, at the date of the passage of the said act of June 25, 1853, had filed in the office of the Secretary of State the declaration provided for by the third section of the aforesaid act of April 10, 1849. [*Laws of 1853, chap. 466, § 28, as amended by Laws of 1853, chap. 528, § 1; see Session Laws of 1849, chap. 308, for the act of 1849; the provisions of which are applicable to the companies incorporated thereunder, as provided in the above section.*]

Act to take  
effect, &c.

§ 35. [Sec. 29.] This act shall take effect immediately; except that those companies whose officers or agents have complied with the law of eighteen hundred and forty-nine, in making and publishing their respective statements, shall be permitted to continue to transact the business of insurance, without further statement, until the thirty-first day of January, eighteen hundred and fifty-four. [*Laws of 1853, chap. 466, § 29.*]

Certain  
joint-stock  
fire insur-  
ance com-  
panies  
may be  
organized  
under act  
of June  
25, 1853.

§ 36. Any persons who have heretofore filed a declaration or commenced the publication of a notice of their intentions to form any joint stock fire insurance company, under the act entitled "An act to provide for the incorporation of insurance companies," passed April 10, 1849, may proceed to organize such companies under the act entitled "An act to provide for the incorporation of fire insurance companies," passed June 25, 1853, without filing any new declaration of intention or publishing any new notice. [*Laws of 1853, chap. 528, § 2.*]

§ 37. Any fire or fire and marine insurance company, chartered by this State, may have a lien by passing a by-law to that effect upon the stock or certificate of profits owned by any member for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificates of stock or profits, and such lien may be waived in writing by the consent of the president of said company upon the transfer of any such stock. [*Laws of 1862, chap. 367, § 6.*]

When  
companies  
to have lien  
upon stock  
or certifi-  
cate of  
profits of  
members.



# LAWS RELATING TO MARINE INSURANCE COMPANIES.

## Chap. 308.

AN ACT TO PROVIDE FOR THE INCORPORATION OF  
INSURANCE COMPANIES; passed April 10, 1849,  
(with amendments, modifications and additions to  
January 1, 1866.)

- SECTION 1. Marine insurance companies may be formed; their purposes and powers.
2. May re-insure any risks taken by them.
  3. Corporators shall file a declaration in the office of the Superintendent of the Insurance Department, comprising a copy of their charter; publication of notice of intention to form a company.
  4. Books of subscription to capital stock, or for agreements for mutual insurance to be opened.
  5. Amount of capital required on organization.
  6. This section repealed.
  7. Provisions concerning the transaction of business in this State by the agents of insurance companies incorporated by other States and foreign governments; definition of the term agent.
  8. Foreign insurance companies to make annual statements.
  9. Penalty for failure to make annual statements.
  10. When annual statements of foreign insurance companies to be made.
  11. Capital and surplus funds; how the same may be invested.
  12. Restrictions as to holding real estate.
  13. Certain provisions required to be contained in the charter.
  14. Charter required to be examined by the Attorney-General; his certificate; examination of capital to be made, or caused to be made, by the Superintendent of the Insurance Department; certificates thereon, and other proceedings.
  15. Corporators, trustees, or directors empowered to make certain by-laws.
  16. Officers required to make, file and publish an annual statement of the affairs of the company; contents thereof; proceedings where it appears from the statement that the capital of any company has become impaired to the extent of twenty-five per cent thereof; liabilities of the directors in certain cases.
  17. Agencies may be established beyond the United States.



18. Where agencies are established in Asia or Europe, statements may be deferred.
19. Insurance companies may change the dates of their fiscal years in certain cases.
20. Companies may extend the term of their original charters in certain cases; proceedings on such extension.
21. Duration of charters; act may be altered, amended or repealed, and companies dissolved.
22. Company may maintain a suit against any of its members or stockholders, and *vice versa*.
23. Companies formed, to be deemed bodies politic and corporate, and subject to the provisions of the Revised Statutes applicable to corporations.
24. Companies prohibited from dealing in goods, wares and merchandise.
25. Liabilities of trustees and corporators until the whole amount of capital is paid in and a certificate thereof recorded. Notes taken in advance of premiums are to be regarded as assets in determining the solvency of a company.
26. Dividends not to be made impairing capital stock; liability of stockholders for receiving a dividend improperly made.
27. Mutual marine insurance company may add cash capital; regulations concerning.
28. Application of Laws of 1857, chap. 38, to existing marine insurance companies.
29. Any mutual marine insurance company heretofore incorporated, having its place of business in the city of New York, may increase its capital and accumulated funds, to any amount deemed expedient for the security of its dealers; regulations.
30. Fire and marine insurance companies may have a lien upon the stock or certificates of profit of members thereof.

Formation  
of com-  
panies.

§ 1. Any number of persons, not less than thirteen in number, may associate and form an incorporated company for the following purposes, to wit:

To make  
insurance  
on vessels,  
&c.  
26 N. Y., 233.  
24 N. Y., 307.  
19 N. Y.,  
33.  
16 N. Y., 280.  
315, 491.  
12 N. Y., 258.  
81 Barb.,  
176.  
29 Barb.,  
305.  
28 Barb.,  
576.  
24 Barb.,  
395.  
16 Barb.,  
493.  
4 Boew., 22.

To make insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interests, and to make all and every insurance appertaining to or connected with marine risks and risks of transportation and navigation. [*Laws of 1849, chap. 308, § 1; as modified by Laws of 1853, chap. 463, § 22, and by Laws of 1853, chap. 466, § 28; as amended by Laws of 1853, chap. 528, § 1.*]

§ 2. Any company organized under this act shall have power to make re-insurance of any risks taken by them respectively, and may make insurance upon any or all of the risks mentioned in the first section. [*Laws of 1849, chap. 308, § 2; as modified by Laws of 1853, chap. 463, § 22, by Laws of 1853, chap. 466, § 28, and by Laws of 1853, chap. 528, § 1.*]

Power to re-insure in certain cases.  
24 Barb., 199.

§ 3. Such persons shall file in the office of the Superintendent of the Insurance Department a declaration, signed by all the corporators, expressing their intention to form a company for the purpose of transacting the business of insurance as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such their intention, once in each week for at least six weeks, in a public newspaper in the county in which such insurance company is proposed to be located. [*Laws of 1849, chap. 308, § 3; as modified by Laws of 1853, chap. 463, § 22, by Laws of 1853, chap. 466, § 28, by Laws of 1853, chap. 528, § 1, and by Laws of 1859, chap. 366.*]

Corporators to file declaration in the office of the Superintendent of the Insurance Department.  
21 N. Y., 55.  
38 Barb., 530.  
16 Barb., 491.

§ 4. It may and shall be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and charter as required by the preceding section, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or, in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements in the manner and to the extent hereinafter specified. [*Laws of 1849, chap. 308, § 4.*]

Books of subscription to stock, when to be opened.  
38 Barb., 530.  
16 Barb., 491.

Provision  
relative to  
capital  
stock in  
New York  
and Kings  
counties.  
16 N. Y.,  
310.  
38 Barb.,  
329, 531.  
37 Barb.,  
607.  
38 Barb.,  
433-611.  
25 Barb.,  
109.  
23 Barb.,  
656.  
16 Barb.,  
491.

§ 5. No joint-stock company, organized for the purposes mentioned in this act, shall be organized in the city and county of New York, nor in the county of Kings, with a smaller capital than one hundred and fifty thousand dollars; nor in any other county in this State with a smaller capital than fifty thousand dollars; nor shall any company formed for the purpose of doing the business of marine insurance, on the plan of mutual insurance, commence business, if located in the city of New York, or in the county of Kings, until agreements have been entered into for insurance with at least one hundred applicants, the premiums on which shall amount to three hundred thousand dollars, and notes have been received in advance for the premiums on such risks payable at the end of or within twelve months from the date thereof, which notes shall be considered a part of the capital stock, and shall be deemed valid, and shall be negotiable and collectible for the purpose of paying any losses which may accrue or otherwise; nor shall any mutual marine insurance company in any other county in the State commence business until agreements have been entered into for insurance, the premiums on which shall amount to one hundred thousand dollars, and the notes received therefor, payable as aforesaid, and which notes shall be liable for and used as aforesaid. [*Laws of 1849, chap. 308, § 5; as modified by Laws of 1853, chap. 463, § 22, by Laws of 1853, chap. 466, § 28, and by Laws of 1853, chap. 528, § 1.*]

23 Barb.,  
576.

§ 6. [*This section, in the original act (chap. 308, Laws of 1849), relating entirely to Life Insurance, was repealed by Laws of 1853, chap. 463, § 22.*]

When  
agents of  
companies  
incorporat-  
ed by other

§ 7. It shall not be lawful for any company organized under this act to transact business unless possessed of capital or securities as hereinbefore men-

tioned ; nor shall it be lawful for any agent or agents of insurance companies incorporated by other States, directly or indirectly, to take risks or transact any business of insurance in this State, without procuring a certificate of authority from the Superintendent of the Insurance Department of this State, and such agent or agents having procured a statement under the oath of the president or secretary of the company for which he or they may act ; which statement shall show the amount of the capital of such company, the manner in which the same is invested, and shall also state the fact whether its capital is impaired, and, if so, how much ; such statement shall be filed in the office of the county clerk of the county where such agent resides, and shall be published in at least one newspaper, if a newspaper be therein published, at least six successive weeks after the filing of such statement as aforesaid ; the first statement shall be filed in the month of January next, and such statement shall be procured annually and filed and published in each and every succeeding month of January thereafter as long as such agency continues, and no company incorporated by other States shall transact business in this State unless possessed of the amount of actual capital required of companies formed under the provisions of this act. Nor shall it be lawful for any agent or agents, hereafter to be appointed, of any company incorporated by any foreign government, other than the States of this Union, for the purpose of insurance, to transact the business of insurance in this State without procuring a certificate of authority from the Superintendent of the Insurance Department ; such agent or agents having previously furnished evidence, to the satisfaction of the Superintendent of the Insurance Department of

States to transact business of insurance in this State

Certificates of authority to be procured from Superintendent.

Statement, what to contain.

To be filed in county clerk's office where agent resides, and to be published.

To be procured, filed and published annually.

When agents of companies formed by foreign governments other than the States of the Union, allowed to transact insurance business in this State.  
12 N. Y., 509

Statements and evidences of investments to be renewed annually.

Renewal certificates to be furnished.

Certificates and copy of statements to be filed.

Penalty for violating provisions of this section.

Proviso.

the State, that such company has invested in the stocks of this State, or of the United States, an amount equal to the amount of capital or security required by this act, and such stocks are held in trust by citizens of this State for the benefit and security of such as may effect insurance with him or them. And the agent or agents, furnishing satisfactory evidence as aforesaid, shall be entitled to a certificate thereof from the Superintendent of the Insurance Department aforesaid. The statements and evidences of investments required by this section shall be renewed from year to year, in the month of January in each year, and the Superintendent of the Insurance Department, on being satisfied that the capital, securities and investments remain secure as at first, shall furnish a renewal of certificates as aforesaid; and the agent or agents obtaining such certificates shall file the same, together with a copy of the statements on which it was obtained or renewed, in the office of the clerk of the county in which such agency shall be established, and shall cause the same to be published in at least one newspaper published in such county. Any violation of the provisions of this section shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the people by the district attorney of the county in which the agent or company so violating shall be situated, and the said penalty when recovered shall be paid into the treasury of said county, *provided* that all companies incorporated by any government other than the States of this Union, which may have appointed such agent or agents before the first day of March, one thousand eight hundred and forty-eight, may hereafter appoint a new agent or agents

in the case of the death, resignation or removal of an agent or agents previously appointed. The term agent or agents used in this section shall include an acknowledged agent or surveyor, or any other person or persons who shall in any manner aid in transacting the insurance business of an insurance company not incorporated by the laws of this State. [*Laws of 1849, chap. 308, § 7 ; as modified by Laws of 1853, chap. 463, § 22, and by Laws of 1859, chap. 366, §§ 3 and 8.*]

Meaning of the term agent.

This section modified by sections 8, 9 and 10, *post.*

§ 8. All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine, or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. [*Laws of 1861, chap. 334, § 1.*]

Foreign insurance companies required to make the same annual statements to the Insurance Department as companies organized under the laws of this State.

§ 9. In case of neglect or refusal to make such annual statement as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnerships or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement as now provided by law. [*Laws of 1861, chap. 334, § 2.*]

Penalties for failure to make annual statements.

§ 10. Foreign insurance companies shall hereafter be required to make and file their annual statements on the first day of November in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statements of their business

When foreign insurance companies to file their annual statements. This section modifies sections 7 and 8, *ante.*

and affairs in the United States shall continue to be filed during the month of January, made out for the year ending on the preceding thirty-first day of December. [*Laws of 1865, chap. 199, § 2.*]

Capital or  
funds, how  
invested.  
33 Barb.,  
330.

§ 11. [Sec. 8.] It shall be lawful for any company organized under this act to invest its capital or the funds accumulated by its business or any part thereof in bonds and mortgages on unincumbered real estate within the State of New York worth fifty per cent more than the sum loaned thereon, and also in the stocks of this State or of the United States, and also in any or all stocks or bonds of either of the incorporated cities of this State, and which stocks or bonds shall be at or above par at the time of such investment, and to lend the same or any part thereof on the security of such stock or bonds; and any company organized for the purpose of marine insurance may, in addition to the foregoing, loan their funds on bottomry and respondentia, and change and re-invest the same as occasion may from time to time require; but any surplus accumulation over and above the capital stock of any such company may be invested in or loaned upon the pledge of the public stock of any one of the United States, or the stock, bonds or other evidence of debt of any institution incorporated under the laws of this State, except their own stock: *Provided*, that the current market value of such corporate stocks, bonds or other evidence of debt shall be at the time of the loan thereon at least ten per cent more than the sum so loaned thereon: *Provided, however*, that any permanent or reserved fund established or created by such company shall be invested in the same manner as capital stock is required to be, except that the re-

Surplus,  
how in-  
vested.  
24 Barb.,  
199.

Proviso.

Proviso.

striction as to the securities being at par shall not apply thereto. [*Laws of 1849, chap. 308, § 8, as amended by Laws of 1857, chap. 469, § 1.*]

§ 12. [Sec. 9.] No company organized by or under the provisions of this act shall be permitted to purchase, hold and convey real estate excepting for the purposes and in the manner herein set forth, to wit:

Real estate not to be purchased, held or conveyed except for certain purposes and in a certain manner.

1. Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same, and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Superintendent of the Insurance Department shall direct in said certificate. [*Laws of 1849, chap.*



308, § 9; *as modified by Laws of 1859, chap. 366, §§ 3 and 8.*]

Mode and manner of exercising corporate powers to be declared in charter.  
29 Barb., 306.  
25 Barb., 458.  
23 Barb., 656.  
16 Barb., 491.

§ 13. [Sec. 10.] In addition to the foregoing provisions it shall be the duty of the corporators of any and every company organized under this act, to declare in the charter which is herein required to be filed the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised, the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this State, and the filling of vacancies, the period for the commencement and termination of its fiscal year, together with the amount of capital to be employed in the transaction of its business. [*Laws of 1849, chap. 308, § 10.*]

Charter to be examined by Attorney-General, &c.  
33 Barb., 438.  
29 Barb., 306.  
28 Barb., 578, 468.  
25 Barb., 109.  
24 Barb., 395.  
21 Barb., 605.  
Examination to be made by Superintendent or commissioners.

§ 14. [Sec. 11.] The charter thus filed by the corporation shall be examined by the Attorney-General, and if found to be in accordance with the requirements of this act, and not inconsistent with the Constitution or laws of this State, he shall certify the same to the Superintendent of the Insurance Department of this State, and the said Superintendent shall thereupon cause an examination to be made either by himself or by three disinterested persons specially appointed by him for that purpose, who shall certify under oath that an amount equal at least to the amount specified in the fifth section of this act, if it be a stock company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the eighth section of this act; or if a mutual company, that it has received and is in actual possession of the capital, premiums or engagements of insurance, as the case may be, to the full extent required by the

fifth section of this act; such certificates shall be filed in the office of the Superintendent of the Insurance Department, whose duty it shall then be to furnish the corporation with a certified copy of the charter and certificates aforesaid, which, upon being filed by them in the office of the clerk of the county in which their company is to be located, shall be their authority to commence business and issue policies, and the same may be used in evidence for or against said corporation. [*Laws of 1849, chap. 308, § 11, as modified by Laws of 1853, chap. 463, § 22, and by Laws of 1859, chap. 366.*]

§ 15. [Sec. 12.] The corporators or the trustees or directors, as the case may be, of any company organized under the provisions of this act, shall have power to make such by-laws, not inconsistent with the Constitution or laws of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs. [*Laws of 1849, chap. 308, § 12.*]

By-laws  
may be  
made.  
23 Barb.,  
666.

§ 16. [Sec. 13.] It shall be the duty of the president or vice-president and secretary of each marine insurance company incorporated by or organized under any law of this State, annually on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Insurance Department, a statement of the condition and affairs of such company, for the year ending on the thirty-first day of December\* then next preceding, exhibiting the total amount of premiums received and the total amount of losses

Annual  
statement  
to be made  
and pub-  
lished.  
83 Barb.,  
488.  
25 Barb.,  
109.  
21 Barb.,  
231.

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\* See sec. 2 of chap. 324, Laws of 1861, with reference to authority conferred on insurance companies, to change the date of the termination of their fiscal year to the 31st day of December.

Contents  
of annual  
statement.

Form of  
annual  
statement  
may be  
changed.

Informa-  
tion con-  
tained in  
annual  
statements  
to be com-  
municated  
to the Leg-  
islature.

paid and ascertained, including expenses during the year; also the amount of debts owing by the company at the date of the statement, and the amount of claims which then exist against the company for losses accrued, showing what amount of such claims for losses is payable on demand, what amount thereof is considered fair or legal, the payment of which has not then matured according to the contract, and what amount thereof is resisted on account of alleged fraud, or for which the company do not consider themselves legally liable; also a statement of the securities representing the capital stock and all the funds of the company, and also whether any of the securities held or owned by such company are considered bad or doubtful, and if so, specifying the amount of such securities and the gross amount of outstanding risks thereon; and exhibiting also the assets and liabilities of the company, its income and expenditures during the year, scrip issued and redeemed, and other miscellaneous items, in such form and manner as shall from time to time be prescribed by the Superintendent of the Insurance Department. The statement herein provided for shall be in lieu of all statements now required to be made or published, by any existing law or provision. The Superintendent of the Insurance Department may from time to time make such changes in the form of said annual statements as shall seem to him best adapted to elicit from the said companies a true exhibit of their condition, situation and affairs. It shall be the duty of the Superintendent of the Insurance Department to cause the information contained in such annual statements to be arranged and communicated to the Legislature with his annual report. If upon due examination it shall appear to the Superintendent

of the Insurance Department that the losses and expenses of any stock company during the year have exceeded the premiums, and in consequence thereof the capital of such company has become deficient, or from any other cause has become impaired to the extent of twenty-five per cent, it shall be the duty of the said Superintendent of the Insurance Department to direct the officers of any such company within sixty days to proceed to wind up its business, unless within that time the stockholders thereof shall pay in the amount of such deficiency.

In case of deficiency, companies to be wound up unless amount of deficiency is paid in.

Any company receiving such requisition from the Superintendent of the Insurance Department, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company; and in case any stockholder of such company shall refuse or neglect to pay such call, after notice personally given or by advertisement in such time and manner as the Superintendent of the Insurance Department shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the Superintendent of the Insurance Department and the company paying for the fractional parts of shares; and it shall be lawful for the directors of said company to create new stock and dispose of the same, and to issue new certificates therefor to an

Calls, when to be made upon stockholders.

When directors individually liable.

Steps to be taken when deficiency in mutual companies.

Directors, when personally liable.

Transfer of stock, when not to release from liability person making the same.

Agencies may be established beyond the United States.

amount sufficient to make up the original capital of the company. And it is hereby declared that in the event of any additional losses accruing upon new risks taken after the Superintendent of the Insurance Department shall have made the requisition aforesaid, and before the said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if upon due examination it shall appear to the Superintendent of the Insurance Department that the losses and expenses of any company chartered on the plan of mutual insurance, under this act, shall during the year have exceeded the premiums, and in consequence thereof that the capital of the company as required in its organization has become deficient, or from any other cause has become impaired, it shall be the duty of the Superintendent of the Insurance Department to direct the officers of such mutual insurance companies to take the same proceedings as herein required to be taken in case of joint-stock companies; and until such directions shall be complied with, the directors shall be personally liable to pay all damages occasioned by such neglect to any person or body corporate which may be injured thereby. Any transfer of the stock of any stock company organized under this act shall not release the party making the transfer from his liability which may have accrued previous to the transfer. [*Laws of 1849, chap. 308, § 13, as amended by Laws of 1864, chap. 425.*]

§ 17. It shall and may be lawful for any marine insurance company to be organized pursuant to the provisions of the said act hereby amended, to establish and maintain one or more agencies beyond the United States for the transaction of its lawful business, upon such terms and conditions as the said

company may prescribe. [*Laws of 1852, chap. 123, § 1.*]

§ 18. In case any such agency or agencies shall be established in Asia or Europe, the statement required by the thirteenth section of the said act hereby amended may be deferred for the space of five months from and after the first day of January in each year, and when made it shall refer to the first day of January then next preceding. [*Laws of 1852, chap. 123, § 2.*]

Agencies  
in Asia or  
Europe.

§ 19. All fire, marine and life insurance companies now required, or which may hereafter be required, to make annual statements to the Insurance Department, for the year ending on the last day of December, are hereby authorized and empowered to change the date of the termination of their fiscal year to the thirty-first day of December; and all statements, reports, dividends, and balances, now required by law to be made, and all other acts required to be done by said companies, at the termination of their fiscal year or years, or within a limited time thereafter, may be made out and done on the last day of December, and within the same period thereafter, in lieu of such other days of the year, or periods of time, as are now designated by their charter or otherwise. [*Laws of 1861, chap. 326, § 2.*]

Insurance  
companies  
may change  
dates of the  
termination  
of their fiscal  
years in cer-  
tain cases.

§ 20. [Sec. 14.] Any existing joint-stock company incorporated by this State for the purposes mentioned in the first section of this act, may at any time after notice being given for three months in a newspaper published in the county where such company is located of such intention, and with a written consent of a majority of three-fourths in amount of its stockholders, or if a mutual company with the unanimous consent of its trustees, extend its original charter to

Provision  
respecting  
existing  
joint-stock  
and mutual  
companies.  
38 Barb.,  
329.  
25 Barb.,  
463.

Existing joint-stock and mutual companies may extend their charters.

Proceedings on such extension.

Duration of charters.  
38 Barb., 839.  
35 Barb., 109.

Suits at law, how maintained  
35 Barb., 109.  
19 Barb., 442.  
16 Barb., 171.

the time specified by the provisions of this act by altering or amending the same, so as to accord with the provisions of this act, and filing a copy of the same so altered or amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire for such extension, and also the written consent of three-fourths of its stockholders, and the unanimous consent of the trustees as aforesaid to such extension, in the office of the Superintendent of the Insurance Department, and upon the filing of such consent, declaration and charter, the same proceedings shall be had as are required by the eleventh section of this act, and any of the mutual [marine] insurance companies already chartered by the Legislature of this State may, after giving ninety days' notice in three of the public papers of the State, change to joint-stock companies by proceeding in accordance with and conforming their charter to the provisions of this act. [*Laws of 1849, chap. 308, § 14; as modified by Laws of 1853, chap. 463, § 22, by Laws of 1853, chap. 466, § 28, and by Laws of 1853, chap. 528, § 1.*]

§ 21. [Sec. 15.] All charters formed or extended under this act shall be of thirty years' duration each, but the Legislature may at any time alter, amend or repeal this act, or dissolve and provide for the closing up the business and affairs of any company formed under it. [*Laws of 1849, chap. 308, § 15; as modified by Laws of 1853, chap. 463, § 22.*]

§ 22. [Sec. 16.] Suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder against such corporation

for losses which may have accrued if payment is withheld more than two months in all risks after such losses shall have become due. [*Laws of 1849, chap. 308, § 16.*]

§ 23. [Sec. 17.] All companies formed under this act shall be deemed and taken to be bodies corporate and politic in fact and in name, and shall be subject to all the provisions of the Revised Statutes in relation to corporations so far as the same are applicable. [*Laws of 1849, chap. 308, § 17.*]

Companies to be subject to provisions of Revised Statutes.

§ 24. [Sec. 18.] No company formed under this act shall, directly or indirectly, deal or trade in buying and selling any goods, wares, merchandise, or other commodities whatever. [*Laws of 1849, chap. 308, § 18.*]

Restriction as to trade.

§ 25. [Sec. 19.] The trustees and corporators of any company organized under this act, and those entitled to a participation of the profits, shall be jointly and severally liable until the whole amount of the capital raised by the company shall have been paid in, and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums under this act are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company. [*Laws of 1849, chap. 308, § 19.*]

Corporators, when liable.  
23 Barb., 438.  
16 Barb., 491.

§ 26. [Sec. 20.] No dividends shall ever be made by any company incorporated under this act when its capital stock is impaired, or when the making of such dividend will have the effect of impairing its capital stock, and any dividend so made shall subject each of the stockholders receiving the same to an individual liability to the creditors of said company to the extent of such dividend received by him. [*Laws*

Dividends, when not to be made.  
23 Barb., 438.



*of 1849, chap. 308, § 20; as amended by Laws of 1857, chap. 38, § 1.]*

Marine insurance companies may unite cash capital in certain cases.  
28 Barb., 576.

Capital, how to be invested.

Subscribers individually liable.

Capital to be liable.

Trustees to make regulations.

§ 27. [Sec. 21.] It shall be lawful for any mutual company established or to be established in conformity with the provisions of the fourth section of this act for the purposes of marine insurance, and having complied with the provisions of the fifth and eleventh sections of this act, to unite a cash capital to any extent not less than two hundred thousand dollars, as an additional security to the members over and above its premiums and stock notes, which additional cash capital shall be loaned and invested as provided in the eighth section of this act, and the company may allow an interest on such cash capital, and a participation in its profits; but no such interest shall be paid except out of the actual profits of such company, and no company shall avail itself of the provisions of this section until such cash capital, to the extent of at least one hundred thousand dollars, shall have been actually paid in, in cash; and the subscribers to such cash capital, whether payable in full or by installments, shall each be individually liable for the debts of said company to the extent of his individual subscription, or such proportion thereof as shall be required in order to satisfy the debts of said company, unless he shall have paid his subscription in full, and such cash capital shall itself be liable as the capital stock of the company in the payment of its debts. The holders of the said cash capital shall be entitled in the election of trustees to one vote for each one hundred dollars of stock held by them respectively, and the trustees may make such regulations in relation to the certificates of stock to be issued, and the transfer thereof, as they may deem necessary for the security of the company and the

owners of the cash capital. [*Laws of 1849, chap. 308, § 21; as amended by Laws of 1857, chap. 38, § 2.*]

§ 28. This act shall take effect immediately, and all the provisions herein contained shall apply to all existing companies organized for the purposes of marine insurance under said act passed April tenth, eighteen hundred and forty-nine, and to all proceedings heretofore had or now pending and in progress for the purpose of uniting a cash capital to the other funds thereof. [*Laws of 1857, chap. 38, § 3; vide also §§ 1 and 2 of this act.*]

Application of chap. 38, Laws of 1857, to existing marine companies.

§ 29. [Sec. 22.] Any mutual insurance company heretofore incorporated by the State, and now in operation, having power to effect marine insurance, and having its place of business in the city of New York, may increase its capital or fund on the amount of accumulated net profits which it is permitted to retain for the benefit and security of its dealers to any amount which shall be deemed expedient by its board of trustees: *Provided, however*, that if there be in the charter of such mutual insurance company any limitation of its capital or fund, or the amount of net profits which it has the power to accumulate and retain, such increase shall not take place unless a written consent thereto, under the corporate seal of the said company affixed thereto by a resolution of the board of trustees or directors, certified by the secretary, shall first be filed in the office of the Superintendent of the Insurance Department of this State; *and provided* that the privilege of retaining profits over one million of dollars shall not be exercised by any company availing itself of the provisions of this act, until a sufficient sum shall have been applied by such company, according to the provisions of its charter, towards the redemption of all certificates or

Mutual marine insurance companies in operation and doing business in New York city authorized to increase capital.

Proviso.

When written consent to be filed in Superintendent's office.

Proviso.

premiums heretofore issued and now outstanding.  
[§ 22 *as inserted and added by Laws of 1855, chap. 292.*]

When companies to have lien upon stock or certificates of profits of members.

§ 30. Any fire or fire and marine insurance company, chartered by this State, may have a lien by passing a by-law to that effect, upon the stock or certificate of profits owned by any member, for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificates of stock or profits, and such lien may be waived in writing by the consent of the president of said company upon the transfer of any such stock. [*Laws of 1862, chap. 367, § 6.*]

## Chap. 28.

### AN ACT IN RELATION TO MARINE MUTUAL INSURANCE COMPANIES INCORPORATED UNDER SPECIAL CHARTERS OR UNDER GENERAL LAWS. (No amendments.) Passed February 16, 1857.

- SECTION 1. Any mutual marine insurance company may add to its funds not less than three hundred thousand dollars cash capital.
2. Profits, how to be divided in cases where cash capital is added ; premiums or risks on which losses shall have happened may be excluded from participation in profits ; funds represented by scrip liable for losses and expenses before capital stock ; oldest annual issue of scrip to be first redeemed.
  3. When cash stock shall amount to three hundred thousand dollars, the trustees may, in certain cases, convert the certificates of profit into cash stock, and whenever the cash stock shall amount to five hundred thousand dollars the trustees may redeem the outstanding certificates of profits and make the company wholly a cash stock company ; regulations.
  4. Cash stockholders only entitled to vote, except in certain cases ; regulations.
  5. How funds to be applied to the redemption of certificates of profits.
  6. Cash stockholder liable for the dues of the corporation, to the extent of his subscription, until his stock is paid up in cash,
  7. Construction of this act.
  8. When act to take effect.

§ 1. Any marine mutual insurance company heretofore chartered by the Legislature of this State under a special act, or any marine mutual insurance company now incorporated, or which may hereafter be incorporated under any general act or law of this State, shall have power to create or unite with its existing corporate funds, if it have any such funds, a cash capital of not less than three hundred thousand dollars, to be divided into shares of one hundred dollars each, to be issued to such persons as shall

Marine insurance companies authorized to create a cash capital.

Amount of capital.

Amount of shares.

Shares how  
transferable.

subscribe and pay for the same; which shares shall be transferable only on the books of the company, subject to such regulations as the trustees shall from time to time prescribe.

Profits how  
to be divided.

§ 2. The profits of the business of every corporation which shall avail itself of the provisions of this act, after setting apart therefrom a sufficient sum to cover the payment of seven per cent per annum upon the cash capital, and also the interest accruing upon any outstanding scrip or certificates of such company, shall be divided between the stockholders and others entitled by its charter or articles of association to participate in its profits, in the following manner, viz.: one third thereof, or such other proportion not exceeding that rate as may be determined and agreed upon at the time when the subscriptions to the cash stock thereof are made, to be paid to the stockholders in cash, and the remainder thereof to the persons entitled by its charter or articles of association to participate in its profits, to whom scrip or certificates therefor shall be issued as provided in said charter or articles of association; but it shall be competent for such company to exclude from the computation of premiums entitled to participate in such profits, premiums or risks on which loss shall have happened. The fund represented by the scrip shall constitute a surplus or reserve of such company for the security and payment of losses, and be liable for any excess of losses and expenses above the earned premiums of any year; each later annual issue of scrip always to be first reduced or wholly canceled before any previous annual issue is at all reduced, and all the issues of scrip to be liable to reduction and cancellation before the capital stock shall be encroached upon.

Company  
to exclude  
certain  
risks.

Surplus or  
reserve  
fund.

To what  
liable.

§ 3. Whenever the cash stock paid in shall amount to three hundred thousand dollars, or more, the trustees may, by the vote of three-fourths of their whole number, convert the certificates of profits, in whole or in part, into cash stock, commencing, if in part, with the certificates of the year of earliest issue outstanding, and so on in succession, upon application therefor being made to the company by the holders thereof within such period of time, and at such a price, not exceeding its par value, and under such conditions and regulations as the trustees may fix and establish for that purpose, and whenever the cash stock shall amount to five hundred thousand dollars, or more, the trustees may by a like vote call in and redeem and cancel the outstanding certificates of profits and make the company wholly a cash stock company, dividing all its profits to the cash stockholders; and the trustees shall have power to make all necessary by-laws and regulations to conform to such changes in the business of the company.

Duties of trustees when cash stock paid in amounts to three hundred thousand dollars.

§ 4. The holders of the cash capital paid in shall be entitled to one vote at all elections of said company for each share of said stock held by them respectively, such votes to be given either in person or by proxy; and no person shall be entitled to vote at any election by reason of being the holder of a policy issued after such cash capital is paid in, or of being the holder of any scrip or certificate of profits of such company issued after that time, unless otherwise provided for in the articles of subscription to the said cash capital.

Holders of cash capital entitled to one vote.

Persons entitled to vote.

§ 5. It shall not be lawful for such company, except as provided in the third section of this act, to apply any of its funds or profits to the redemption or payment of any certificate of profits, if by such

Funds how lawfully applied.

Amount of aggregate capital and profits. payment the aggregate of its cash capital, and its accumulated profits together, shall be reduced below the amount which shall have been fixed by its by-laws or articles of association, and such aggregate amount shall not be fixed below the sum of one million of dollars, in addition to the amount of the cash stock thereof.

Subscribers individually liable. § 6. Each subscriber to the cash capital aforesaid shall be individually liable to the extent of his subscription for the dues of the corporation, until the shares of stock subscribed for by him shall have been paid in cash to the said corporation.

Act, how to be construed. § 7. This act shall not be so construed as to extend or prolong any special charters beyond the period for which the same were originally granted; or to apply to or revive any charter under which any company is not now actually transacting business.

When to take effect. § 8. This act shall take effect immediately.

# LAWS RELATING TO LIFE, HEALTH AND CASUALTY INSURANCE COMPANIES.

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## Chap. 463.

**AN ACT FOR THE INCORPORATION OF LIFE AND HEALTH INSURANCE COMPANIES, AND IN RELATION TO AGENCIES OF SUCH COMPANIES ; passed June 24, 1853 (with amendments and additions to January 1, 1866).**

- SECTION**
1. Companies may be formed ; their purposes.
  2. The amount of capital and the deposit of securities by companies organized under the second department to be \$100,000.
  3. When organized under one department, not to take risks in the other department, and when transacting business of life insurance not permitted to take other risks.
  4. Declaration and charter to be filed in the office of the Superintendent of the Insurance Department ; contents thereof.
  5. Declaration and charter to be examined by the Attorney-General, and, if correct, certified and delivered back to the Superintendent of the Insurance Department, and recorded.
  6. When corporators have received certified copy from the Superintendent, may publish notice of intention to form company, open books of subscription to capital stock, &c.
  7. Amount of capital stock required to organize companies ; how paid in ; deposit of securities with the Superintendent as security for policy holders.
  8. Superintendent of the Insurance Department to furnish corporation with certificate of deposit of securities, and a certified copy of charter, &c., to be filed in county clerk's office ; when company is authorized to commence business.
  9. Companies may invest funds in bonds and mortgages or in certain stocks.



## LIFE INSURANCE LAWS

## SECTION 10. Charters of companies may be amended.

11. Companies not permitted to purchase, hold or convey real estate, except for certain specified purposes.
12. Corporators empowered to adopt a corporate seal, and make by-laws; suits may be maintained by stockholders against corporation, and *vice versa*.
13. Companies organized under this act to become bodies corporate and politic.
14. Officers of corporation required to furnish the Superintendent of the Insurance Department with an annual statement of the company's affairs; contents thereof; Superintendent to furnish forms.
15. Annual report of the Superintendent to the Legislature.
16. Agents of life insurance companies of other States not to act, unless certain conditions are complied with; certificate of authority to be granted by the Superintendent in certain cases, &c.
17. Annual statements of life, health and casualty companies, when to be made; fees for certificates of authority.
18. Agents of foreign life insurance companies not to act unless a deposit is made in the Insurance Department and certain other conditions complied with; certificates of authority to be granted by the Superintendent in certain cases, &c.
19. Annual statements of their condition, &c., to be made to Insurance Department.
20. Penalty for neglecting to make annual statement.
21. When annual statements of foreign insurance companies to be made.
22. Fees of county clerk.
23. Superintendent of the Insurance Department to cause an examination to be made into company's affairs in certain cases; proceedings thereon; duties of Superintendent and Attorney-General.
24. Penalty for violating provisions of this act.
25. Proceedings when companies desire to relinquish business.
26. Charters to continue until repealed.
27. Existing companies may avail themselves of the provisions of this act.
28. Repeal of act of April 10, 1849, and of April 8, 1851, so far as said acts relate to life insurance; exception.
- 29 and 30. Mutual life insurance companies incorporated before April 10, 1849, subject to taxation on personal property to the extent of \$100,000 only.

[The original numbering of the sections of this act is retained within brackets.]

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Company  
may be  
created.

§ 1. Any number of persons, not less than thirteen in number, may associate and form an incorporation or company for the purposes specified in either of the following departments:

*First Department.* To make insurance upon the lives of individuals and every insurance appertaining thereto or connected therewith, and to grant, purchase or dispose of annuities.

Insurance upon lives.

*Second Department.* To make insurance upon the health of individuals and against personal injury, disablement or death resulting from traveling or general accidents by land or water, and guaranteeing the fidelity of persons holding places of public or private trust, and upon the lives of horses, cattle and other live stock, and also against loss, damage or liability arising from any unknown or contingent event whatever, which may be the subject of legal insurance, except the perils and risks included within the departments of fire, marine and life insurance.

Insurance upon health and against casualties.

Exception.

Every company organized under this act shall have authority to re-insure any risk herein authorized to be undertaken. [*Laws of 1853, chap. 463, § 1; as amended by Laws of 1865, chap. 328, § 1.*]

Re-insurance.

§ 2. The amount of capital necessary for the organization of a company under the second department contained in the first section of said act, and the deposit of securities required to be made in the Insurance Department for the benefit of policy holders, shall hereafter be at least one hundred thousand dollars, in lieu of twenty-five thousand dollars, as heretofore required, and such deposit shall consist of the same securities required of life insurance companies. [*Laws of 1865, chap. 328, § 2.*]

Amount of capital or deposit of securities required for second department.

§ 3. [Sec. 2.] No company organized under this act for the purposes named in the first department, shall undertake either of the risks mentioned in the second department; nor shall any company organized under this act, for the purposes named in the second department, undertake any business mentioned in the first

Companies organized for purposes of one department not to take risk in another department.

department; and no company organized under this act shall undertake any business or risks, except as herein provided.

Companies transacting business of life insurance not permitted to take other risks than those appertaining to insurances on life.

No company, partnership or association, organized or incorporated by or under the laws of this or any other State of the United States or any foreign government transacting the business of life insurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making insurance on life, and the granting, purchasing and disposing of annuities; nor shall the business of life insurance in this State be in any wise conducted or transacted by any company, partnership or association, which in this, or any other State or country, makes insurance on marine or fire risks, excepting by such foreign companies and associations as shall have already made the deposit in the Insurance Department required for the transaction of life insurance business in this State. [*Laws of 1853, chap. 463, § 2; as amended by Laws of 1862, chap. 300, § 1.*]

Exception.

Corporators to file declaration.

§ 4. [Sec. 3.] The persons referred to in the first section of this act shall be designated as corporators, and they shall file in the office of the Superintendent of the Insurance Department,\* a declaration signed by each of the corporators, setting forth their intentions to form a company for the purposes named in this act, which declaration shall comprise a copy of the charter they propose to adopt, and the said charter shall set forth the name of the company; the place where it is to be located; the kind of business to be undertaken by referring to and repeating the depart-

What charter to contain.

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\* The words "Superintendent of the Insurance Department" or "said Superintendent," are substituted for "Comptroller," in accordance with the provisions of section 3, chapter 366, Laws of 1859.

ment of the first section of this act to which they refer; the mode and manner in which the corporate powers of the company are to be exercised; the manner of electing the trustees or directors and officers, a majority of whom shall be citizens of this State, and the time of such election; the manner of filling vacancies; the amount of capital to be employed; and such other particulars as may be necessary to explain and make manifest the objects and purposes of the company, and the manner in which it is to be conducted. [*Laws of 1853, chap. 463, § 3.*]

§ 5. [Sec. 4.] Whenever the corporators shall file such declaration with the Superintendent of the Insurance Department, it shall become his duty to submit the same to the Attorney-General for examination; and, if found by him to be in accordance with the provisions of this act, and not inconsistent with the Constitution and laws of the United States and of this State, he shall certify to the same and deliver it back to the said Superintendent, who shall cause the said declaration, with the certificate of the Attorney-General, to be recorded in a book to be kept for that purpose, and, upon application of the corporators to the said Superintendent, it shall become his duty to furnish a certified copy of such declaration and certificate to the said corporators. [*Laws of 1853, chap. 463, § 4.*]

Attorney-General to certify to declaration.

Declaration to be recorded.

Certified copy of declaration to be furnished by Superintendent.

§ 6. [Sec. 5.] Whenever the corporators shall have received from the said Superintendent the certified copy provided for in the last section, and desire to proceed to organize such company, they shall publish their intentions in the paper in which the State notices are directed to be inserted; and when such intentions have been published in said paper for six weeks, they may open books to receive subscriptions

Corporators to publish intention to form company in the State paper.

Books to  
opened.

to the capital stock, and keep such books open until the amount required by this act is subscribed, and may then proceed to distribute the stock among the subscribers, if more than the necessary amount is subscribed, and proceed to collect in the said capital and complete the organization of the company. [*Laws of 1853, chap. 463, § 5.*]

Amount of  
capital  
required.

§ 7. [Sec. 6.] No company shall be organized under this act, for the purposes mentioned in the first department, with a less capital than one hundred thousand dollars, and no company shall be organized, for the purposes mentioned in the second department, with a less capital than one hundred thousand dollars. The whole capital of such company shall, before proceeding to business, be paid in and invested in stocks or in treasury notes of the United States or of the State of New York, or in bonds and mortgages on improved unincumbered real estate within the State of New York, worth seventy-five per cent more than the amount loaned thereon, exclusive of farm buildings thereon, or in such stocks or securities as now are or may hereafter be receivable by the bank department.\*

And of  
what to  
consist.

Change and  
re-invest-  
ment of  
capital.

And it shall be lawful for any company organized under this act, to change and re-invest its capital or

\* The following are the statute provisions prescribing the kind and nature of the stocks receivable by the Bank Department:—

“The stocks which banking associations or individual bankers, now or hereafter to be organized under the provisions of the act, ‘To authorize the business of banking,’ passed April 18, 1838, and the amendments thereto, shall hereafter deposit with the Superintendent, shall be New York State stocks, in all cases to be, or to be made to be, equal to stock producing six per cent per annum, or at least one-half the amount so deposited, shall be in the stocks of the State of New York, as before mentioned, and not exceeding one-half in stocks of the United States, in all cases to be, or to be made to be equal to a stock producing an interest of six per cent per annum; and it shall not be lawful for the Superintendent to take such stocks at a rate above their par value, or above their current market value.” [*Vide Laws of 1849, chap. 813, § 1.*]

In lieu of stocks, one-half of the deposit of securities in the bank department may consist of seven per cent bonds and mortgages on improved, productive, unincumbered lands within this State, for not exceeding two-fifths of the value of said lands, excluding buildings; to be received at a sum not above five thousand dollars for each mortgage, and under regulations to be prescribed by the Superintendent of the Bank Department. [*Vide Laws of 1838, chap. 260, § 8; Laws of 1848, chap. 340, §§ 2 and 3, and Laws of 1851, chap. 164, § 10.*]

any part thereof, at any time they may desire, in the stocks or bonds and mortgages or securities aforesaid. No company organized for the purposes mentioned in the first department, shall commence business until they have deposited with the Superintendent of the Insurance Department of this State, the sum of one hundred thousand dollars in United States or New York State stocks, in all cases to be, or to be made to be equal to stock producing six per cent per annum, and not to be received at a rate above their par value, or above their current market value, or in bonds and mortgages of the description and character above indicated, and no company organized for the purposes named in the second department, shall commence business until they have deposited with the Superintendent of the Insurance Department of this State, at least the sum of one hundred thousand dollars, invested as hereinbefore provided for the investment of the capital of such company. The Superintendent of the Insurance Department shall hold such securities as security for policy holders in said companies, but so long as any company so depositing shall continue solvent, may permit such company to collect the interest or dividends on its securities so deposited, and from time to time to withdraw any of such securities on depositing with the said Superintendent such other securities of like value as those withdrawn, and of the same character and to be received as those above mentioned. [*Laws of 1853, chap. 463, § 6, as amended by Laws of 1853, chap. 551, § 1, by Laws of 1860, chap. 328, § 1, and by Laws of 1862, chap. 300, § 2, as modified by Laws of 1865, chap. 328, § 2.*]

Companies not to commence business until they have deposited, with the Superintendent, \$100,000 in United States or State stocks, or in bonds and mortgages.

Companies may collect interest on securities.

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\* The original section 6 of chapter 463, Act of 1853, as amended by section 1, chapter 551, Laws of the same year, is as follows:—

Superintendent to furnish certificate of deposit.

§ 8. [Sec. 7.] Whenever the corporators shall have fully organized such company, and the said company have deposited with the said Superintendent the requisite amount of capital, it shall become his duty to furnish the corporation with a certificate of such deposit, which, with a certified copy of the papers previously required under this act, shall, when filed in the county clerk's office of the county where such company is to be located, be the authority to commence business and issue policies, and the same may be used in evidence for and against the corporation in all suits. [*Laws of 1853, chap. 463, § 7.*]

When authorized to commence business.

Funds, how invested.

§ 9. [Sec. 8.] It shall be lawful for any company organized under this act, to invest its funds or accumulations in bonds and mortgages on unincumbered real estate within the State of New York, worth fifty per cent more than the sum so loaned thereon, exclusive of buildings, unless such buildings be insured in a good and solvent insurance company or companies, and the policy or policies of insurance be assigned as collateral security for the money loaned or in stocks or treasury notes of the United States, stocks of this State, or stocks of any incorporated city of this State, and to lend the same or any part

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§ 6. No company shall be organized under this act for the purposes mentioned in the first department with a less capital than one hundred thousand dollars; and no company shall be organized for the purposes mentioned in the second department with a less capital than twenty-five thousand dollars. The whole capital of such company shall, before proceeding to business, be paid in and invested in stocks of the United States, or of the State of New York, the market value of which shall be at the time at or above par, or in such stocks or securities as now are or may hereafter be receivable by the Bank Department. No company organized for the purposes mentioned in the first department shall commence business until they have deposited with the Comptroller of this State the sum of one hundred thousand dollars in the stocks or securities before mentioned; but all mortgages deposited by any company under this section shall be upon improved unincumbered real estate, worth seventy-five per cent more than the amount loaned thereon; and no company organized for the purposes named in the second department shall commence business until they have deposited with the Comptroller of this State the sum of twenty-five thousand dollars in the stocks or securities before mentioned. The Comptroller shall hold such stocks or securities as security for policy holders in said companies; but, so long as any company so depositing shall continue solvent, may permit such company to collect the interest or dividends on its stocks or securities so deposited, and, from time to time, to withdraw any of such securities, on depositing with the Comptroller other securities of like character, the market value of which shall be at the time of such deposit at or above par.

thereof on the security of such bonds and mortgages, and upon the pledge of such stocks or treasury notes; *provided*, that the current market value of such stocks or treasury notes shall be at least ten per cent more than the sum so loaned thereon. [*Laws of 1853, chap. 463, § 8, as amended by Laws of 1860, chap. 328, § 2, and by Laws of 1862, chap. 300, § 3.\**]

Proviso.

§ 10. Any company organized under the acts to which this is an amendment, having first obtained the consent of the Superintendent of the Insurance Department thereto in writing, may, by a vote of a majority of their directors, accept the provisions of this act, or any of them, and amend their charter to conform with the same. [*Laws of 1860, chap. 328, § 3.*]

Charter may be amended.

§ 11. [Sec. 9.] No company organized under this act shall be permitted to purchase, hold or convey real estate, except for the purposes and in the manner herein set forth, to wit:

Companies not to hold or convey real estate except for certain purposes and in a certain manner.

1. Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for moneys due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any company incorporated as aforesaid to purchase, hold

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\* The original section 8, chapter 463, Laws of 1853, is as follows:

§ 8. It shall be lawful for any company organized under this act, to invest its funds or accumulations in bonds and mortgages, on unincumbered real estate within the State of New York, worth fifty per cent more than the sum so loaned thereon, or in stocks of the United States, stocks of this State, or of any incorporated city in this State, if at or above par, and any stocks created under the laws of this State that shall be, at the time of such investment, at a market value in the city of New York, at or above par.



Certain real estate to be disposed of within five years after title thereto acquired, unless time for sale is extended by the Superintendent.

or convey real estate in any other case or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the said Superintendent shall direct in said certificate. [*Laws of 1853, chap. 463, § 9.*]

Corporators, &c., to adopt seal, make by-laws, &c.

12. [Sec. 10.] The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to adopt a seal, and to make such by-laws, not inconsistent with this act or the Constitution and laws of this State, as may be deemed necessary for the management of its affairs; and suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such company; also, suits at law may be prosecuted and maintained by any member or stockholder against such corporation for losses which may have accrued, if payment is withheld more than two months, on all risks, after such losses shall have been due. [*Laws of 1853, chap. 463, § 10.*]

Suits at law may be maintained.

Companies formed, to be bodies corporate and politic.

§ 13. [Sec. 11.] All companies formed under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the Revised Statutes in rela-

tion to corporations, so far as the same are applicable, except in regard to annual statements and other matters herein otherwise specially provided for. [*Laws of 1853, chap. 463, § 11.*]

§ 14. [Sec. 12.] It shall be the duty of the president or vice-president and secretary or actuary, or a majority of the trustees of each company organized under the laws of this State, annually, on the first day of January, or within sixty days thereafter, to prepare, under oath, and deposit in the office of the Superintendent of the Insurance Department of the State, a statement, showing:

Statement, under oath, to be made annually to Superintendent of Insurance Department.

1. The number of policies issued during the year.
2. The amount of insurance effected thereby.
3. Amount of premiums received during the year.
4. Amount of interest and all other receipts, specifying the items.
5. Amount of losses paid during the year.
6. Amount of losses unpaid.
7. Amount of expenses.
8. Whole number of policies in force.
9. Amount of liabilities or risks thereon, and of all other liabilities.
10. Amount of capital stock.
11. Amount of accumulation, specifying whether received upon life insurance, annuities, or how otherwise.
12. Amount of assets and manner in which they are invested, specifying what amount in real estate, on bond and mortgage, stocks, loans on stocks, premium notes, credits or other securities.
13. Amount of dividend unpaid.
14. A tabular statement of the policies in force for the whole term of life, showing how many thereof for each age of life, and for what amount of risk,

Contents of statement.

Contents of  
statement.

were issued or in force during the first year of the existence of the company, during the second year, and so on up to the time of making such statement.

15. A tabular statement of the policies in force for a shorter period than the whole term of life, showing how many thereof for each age of life, and for what amount of risk, were issued or continued in force during the first year of the company's existence, during the second year, and so on up to the time of making such statement.

Companies  
to be fur-  
nished with  
printed  
forms of  
statements.

Forms may  
be changed  
by the Super-  
intendent.

The Superintendent of the Insurance Department shall cause to be prepared, and furnished to every company to which this act shall apply, printed forms of the statements herein required; and he may make such changes from time to time, in the form of the same, as shall seem to him best adapted to elicit from said companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. [*Laws of 1853, chap. 463, § 12.*]

Statements  
to be com-  
municated  
to the Leg-  
islature.

§ 15. [Sec. 13.] It shall be the duty of the Superintendent of the Insurance Department to cause the information contained in the statements required in the last section to be arranged in a tabular form, and prepare the same in a single document for printing, which he shall communicate to the Legislature. [*Laws of 1853, chap. 463, § 13.*]

No person  
permitted  
to act as  
agent for  
company  
organized  
under any  
other State  
govern-  
ment until  
such  
company  
has com-  
plied with  
certain con-  
ditions.

§ 16. [Sec. 14.] It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business of insurance, referred to in the first section of this act, for any company or association incorporated by or organized under the laws of any other State government, unless such company is possessed of the amount of actual capital required by the sixth section of this act

for companies in this State, and the same is invested in stocks or treasury notes of the United States, or of the State of New York, or of the State in which said company is located, or on bonds and mortgages on improved, unincumbered real estate within the State where such company is located, or in such stocks or securities as now are or may hereafter be receivable by the Bank Department; but all mortgages deposited by any company under this section shall be upon improved, unincumbered real estate, worth seventy-five per cent more than the amount loaned thereon, which stocks and securities shall be deposited with the Auditor, Comptroller or chief financial officer of the State by whose laws said company is incorporated, and the Superintendent of the Insurance Department of this State furnished with the certificate of such Auditor, Comptroller or chief financial officer aforesaid, under his hand and official seal, that he, as such Auditor, Comptroller or chief financial officer of such State, holds in trust and on deposit, for the benefit of all the policy holders of such company, the security before mentioned, which certificate shall embrace the items of the security so held, that he is satisfied that such securities are worth one hundred thousand dollars, if the company proposes to transact the business referred to in the first department, or that they are worth one hundred thousand dollars if the company proposes to transact the business referred to in the second department. But nothing herein contained shall be construed to invalidate the agency of any company incorporated by another State by reason of such company having from time to time exchanged the securities so deposited with the Auditor, Comptroller or chief financial officer of the State in which such

Stock and  
nature  
thereof.

Certificate  
to be fur-  
nished as  
to security.

Saving  
clause as to  
exchange  
of securi-  
ties.

An attorney  
to be ap-  
pointed on  
whom pro-  
cess may be  
served.  
Charter to  
be filed.

When ser-  
vice of pro-  
cess to be  
made upon  
agents last  
designated.

Statement  
of con-  
dition, &c.,  
to be filed.

No agent to  
act without  
procuring  
certificate  
of author-  
ity.

What to  
contain  
and where  
filed.

company is located, for other stock or securities, authorized by this act, or by reason of such company having drawn its interest and dividends, from time to time, for such stocks and securities. Such company shall also appoint an attorney in this State, on whom process of law can be served ; and such attorney shall file with the Superintendent of the Insurance Department a certified copy of the charter of said company, and also a certified copy of the vote or resolution of the trustees or directors of the said company appointing such attorney, which appointment shall continue until another attorney be substituted. And in case any such insurance corporation shall cease to transact business in this State according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation, for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corporation. Such company shall also file a statement of its condition and affairs in the office of the Superintendent of the Insurance Department, in the same form and manner required for the annual statements of similar companies organized under the laws of this State. It shall not be lawful for any agent to act for any company referred to in this section, directly or indirectly, in taking risks, collecting premiums, or in any manner transacting the business of life insurance in this State, without procuring from the said Superintendent a certificate of authority, stating that the foregoing requirements have been complied with, and setting forth the name of

the attorney for such company, a certified copy of which certificate shall be filed in the county clerk's office of the county where the agency is to be established, and shall be the authority of such company and agent to commence business in this State, and such company or its attorney shall annually, in the month of January, file with the Superintendent of the Insurance Department of this State a statement of its affairs for the preceding year, in the same manner and form provided in the twelfth section of this act for similar companies in this State; and if the said annual statement shall be satisfactory evidence to the Superintendent of the Insurance Department of the solvency and ability of the said company to meet all its engagements at maturity, and that the said deposit is maintained, as above required and provided, he shall issue renewal certificates of authority to the agents of said company, certified copies of which shall be filed in the county clerk's office of the county where the agency is located, during the month of January in each year, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the ensuing year. [*Laws of 1853, chap. 463, § 14; as amended by Laws of 1853, chap. 551, § 2, and by Laws of 1862, chap. 300, § 4, as modified by Laws of 1865, chap. 328, § 2.*]

Annual statements to be filed.

See section 17, *post*, modifying this section.

Renewal certificates to be issued, and to be filed.

§ 17. The annual statements of life, health or casualty insurance companies, incorporated by or organized under the laws of any other State government, shall hereafter be made on the first day of January of each year, or within sixty days thereafter, and the renewal certificates of authority issued and filed within the same period. The fees for each certificate of authority, and certified copy thereof, shall be five dollars. [*Laws of 1865, chap. 328, § 3.*]

Annual statements, when to be made.

See § 16, *ante*, modified by this section.

Fees for certificate of authority.

Securities to be deposited with Superintendent before agent can act for foreign insurance companies. 28 Barb., 316.

An attorney to be appointed, upon whom process may be served.

Certified copy of charter to be filed.

Service of process upon agents

§ 18. [Sec. 15.] It shall not be lawful for any person to act in this State as agent or otherwise, in receiving or procuring applications for life or health insurance, or in any manner to aid in transacting the business of any life or health insurance company, partnership or association, incorporated by or organized under the laws of any foreign government, until such company, partnership or association shall have deposited with the Superintendent of the Insurance Department for the benefit of the policy holders of said company, partnership or association, citizens or residents of the United States, securities to the amount of one hundred thousand dollars of the kind required, or which may hereafter be required for similar companies of this State, and shall have appointed an attorney in this State, on whom process of law can be served, and the said company, partnership or association shall have filed with the Superintendent of the Insurance Department a duly certified copy of the charter or deed of settlement of the said company, partnership or association, and also a duplicate original copy of the letter or power of attorney of such company or association appointing the attorney thereof, which appointment shall continue until another attorney be substituted. And in case any such insurance corporation shall cease to transact business in this State according to the laws thereof, the agents last designated or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corpo-

ration. Such company, partnership or association shall also file a statement of its condition and affairs, in the office of the Superintendent of the Insurance Department, in the same form and manner required for the annual statements of similar companies organized under the laws of this State. It shall not be lawful for any agent or agents to act for any company, partnership or association referred to in this section, directly or indirectly, in taking risks, collecting premiums, or in any manner transacting the business of life insurance in this State, without procuring from the said Superintendent a certificate of authority (which shall be renewable annually) stating that the foregoing requirements have been complied with, and setting forth the name of the attorney for such company, a certified copy of which certificate shall be filed in the county clerk's office of the county where the agency is to be established, and which shall be the authority of such company and agent to commence business in this State; and such company, partnership or association, shall annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department, a statement of all its affairs, in the same manner and form provided in the twelfth section of this act for similar companies in this State; which statement shall be made up for the year ending on the preceding thirtieth day of June, accompanied also by a supplementary annual statement, duly verified by the attorney or general agent of the company or association in this State, giving a detailed description of the policies issued, and those which have ceased to be in force during the year, the amount of premiums received and claims and taxes paid in this State

Statement of condition, &c., of company to be filed in office of Superintendent.

Agents not to act without certificate of authority.

What certificate to contain and where filed.

Annual statements to be filed.

See sections 19, 20 and 21, *post*, on subject of annual statements.

Supplementary statement.

What to contain.



Renewal ' certificates to be issued and certified copies thereof filed in offices of county clerks where agencies are located.

Annual tax to be paid into State treasury to defray expenses of Insurance Department.

When collectible out of interest on securities.

and the United States, for the year ending on the preceding thirty-first day of December. Said supplementary statement shall also contain a description of the investments of such company or association, in this country, and such other information as may be required by said Superintendent; and if the said annual statement shall be satisfactory evidence to the said Superintendent of the solvency and ability of the said company to meet all its engagements at maturity, he shall issue renewal certificates of authority to the agents of said company, partnership or association, certified copies of which shall be filed by such agents in the county clerk's office of the county where the agency is located, within sixty days after the first day of January, in each year, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the ensuing year. All such foreign insurance companies, partnerships and associations, engaged in the transaction of the business of life or health insurance in this State, shall, annually, on or before the first day of March, in each year, pay to the Superintendent of the Insurance Department, a tax of two per cent on all premiums received in cash or otherwise, by their attorneys or agents in this State, during the year ending on the preceding thirty-first day of December, upon which a tax on premiums has not been paid to any other State. The avails of said tax shall be paid into the State Treasury, and shall be applicable, as far as necessary, towards defraying the expenses of the Insurance Department. In case of neglect or refusal, by any such company, to pay said tax, the Superintendent is hereby authorized to collect the same out of the interest on the stocks and securities

deposited by such company in the Insurance Department. [*Laws of 1853, chap. 463, § 15, as amended by Laws of 1862, chap. 300, § 5.*]

§ 19. All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. [*Laws of 1861, chap. 334, § 1.*]

Foreign insurance companies to make annual statements.

See section 18, *ante*, and section 21, *post*, on the subject of annual statements.

§ 20. In case of neglect or refusal to make such annual statements, as aforesaid, all persons acting in this State, as agents or otherwise, in transacting the business of insurance for said companies, corporations, associations, partnerships, or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement, as now provided by law. [*Laws of 1861, chap. 334, § 2.*]

Penalty for neglect to make annual statements.

§ 21. Foreign insurance companies shall hereafter be required to make and file their annual statements on the first day of November in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statements of their business and affairs in the United States shall continue to be filed during the month of January, made out for the year ending on the preceding thirty-first day of December. [*Laws of 1865, chap. 199, § 2.*]

When foreign insurance companies to file their annual statements.

See sections 18 and 19, *ante*, in relation to annual statements.

§ 22. [Sec. 16.] Every county clerk shall demand and receive for every paper filed in his office under

Fees to be paid to county clerk.

this act, the sum of ten cents, to be accounted for and paid to the county treasurer as now provided with regard to other fees. [*Laws of 1853, chap. 463, § 16, as modified by Laws of 1859, chap. 366, §§ 7, 8.*]

Superintendent to cause examination to be made.

§ 23. [Sec. 17.] It shall be the duty of the Superintendent of the Insurance Department, whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any company making such statement are in an unsound condition, to cause an examination to be made into the affairs of any insurance company for the purposes named in this act, incorporated in this State, or doing business by its agencies in this State; and it shall be the duty of the officers or agents of any insurance company doing business in this State, to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power so to do; and for that purpose the said Superintendent, or the person or the persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the business of said company; and whenever the said Superintendent shall deem it for the interest of the public so to do, he shall publish the result of such investigation in the paper in which the State notices are directed to be inserted; and whenever it shall appear to the said Superintendent, from such examination, that the assets of any such company be insufficient to reinsure the outstanding risks, he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court for an order requiring them to show cause why the business of such company should not be closed, and the court

Books to be opened for inspection.

Result of investigation may be published in State paper.

Attorney-General to apply to Supreme Court for an order.

shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of the said court that the assets and funds of the said company are not sufficient, as aforesaid, the said court shall decree a dissolution of said company and a distribution of its effects, including the securities deposited in the hands of the said Superintendent. The Supreme Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. And whenever it shall appear to the said Superintendent, from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the State paper for four weeks, and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policies. The expenses of any examination made under this section, shall be borne by the company so examined. [*Laws of 1853, chap. 463, § 307.*]

When dissolution to be decreed.

Certificates, when to be revoked.

Expenses of examination.

§ 24. [Sec. 18.] Every violation of this act shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the people, by the district attorney of the county in which the company or agent or agents so violating shall be situated, and one-half of such penalty, when recovered, shall be paid into the treasury of such county, and the other half to the informer of such violation; and, in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a

Penalty for violation of this act.

period not exceeding six months, in the discretion of any court having cognizance thereof. [*Laws of 1853, chap. 463, § 18.*]

Proceedings in case company wishes to relinquish its business.

When securities to be delivered up by Superintendent.

§ 25. [Sec. 19.] When any company, transacting the business of insurance under either of the departments specified in the first section of this act, within the State of New York, shall desire to relinquish its business, the Superintendent of the Insurance Department shall, on application of such company or association, under the oath of the president or principal officer and secretary or actuary, give notice of such intention in the paper in which the State notices are directed to be inserted, at least twice a week for six months; and after such publication he shall deliver up to such company or association the securities held by him, belonging to them, on being satisfied by the exhibition of the books and papers of such company or association, and on examination, to be made by himself or some competent person, not officer of any life insurance company in this State, to be appointed by him, and upon the oath of the president or principal officer, and the secretary or actuary of the same, that all debts and liabilities of every kind are paid and extinguished that are due or may become due upon any contract or agreement made with any citizens of the United States. And the said Superintendent may also from time to time deliver up to such company or association or its assigns, any portion of said securities, on being satisfied in manner and form aforesaid, or by any other competent proof, that all the debts and liabilities of every kind that are due or may become due upon any contract or agreement made with any citizen of this State by said company or association are less than one-half of the amount of the portion

of said securities he shall still retain. [*Laws of 1853, chap. 463, § 19, as amended by Laws of 1859, chap. 263, § 1.*]

§ 26. [Sec. 20.] Every charter created by or under the laws of this State for the purposes aforesaid, shall continue until repealed. [*Laws of 1853, chap. 463, § 20.*]

Charter to continue until repealed. 31 Barb., 176.

§ 27. [Sec. 21.] Any existing company incorporated by or authorized under the laws of this State, for the purposes mentioned in this act, may avail themselves of the provisions of this act, after publishing their intentions for six weeks in the State paper, and obtaining the consent of the majority of the trustees or directors, and complying with the third section of this act in relation to the filing and contents of the declaration therein referred to. [*Laws of 1853, chap. 463, § 21.*]

Existing companies may avail themselves of the provisions of this act.

§ 28. [Sec. 22.] So much of the act of April tenth, eighteen hundred and forty-nine, and of April eighth, eighteen hundred and fifty-one, as relate to life insurance, is hereby repealed, but this section shall not affect any company incorporated under such acts. [*Laws of 1853, chap. 463, § 22.*]

Parts of acts of 1849 and 1851, repealed.

§ 29. Any mutual life insurance company in this State, incorporated previously to the passage of the general insurance law, on the tenth day of April, eighteen hundred and forty-nine, shall be subject to taxation in the same manner as if it were incorporated under said general law, with a capital of one hundred thousand dollars, as required by the sixth section of the said general law.\* [*Laws of 1853, chap. 469.*]

Mutual life insurance companies to be subject to taxation.

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\* An act entitled "An act to amend the general law relative to the incorporation of insurance companies," passed June 29, 1853.

Mutual life insurance company incorporated before April 10, 1849, subject to taxation on personal property to the extent of \$100,000 only.

§ 30. Any mutual life insurance company incorporated in this State previous to the passage of the general insurance law, on the tenth day of April, eighteen hundred and forty-nine, shall be subject to taxation on the sum of one hundred thousand dollars for personal property and no more; and it is hereby declared that such was the intention and it is the true construction of said act of June twenty-ninth, eighteen hundred and fifty-three, in regard to any taxes imposed on said companies after said act took effect.\* [*Laws of 1855, chap. 83.*]

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\* An act entitled "An act to declare the intention and make more certain an act entitled 'An act to amend the general law relative to the incorporation of insurance companies, passed June twenty-ninth, eighteen hundred and fifty-three;'" passed March 24, 1855, three-fifths being present.

## Chap. 95.

**AN ACT IN RELATION TO ALL COMPANIES TRANS-  
ACTING THE BUSINESS OF LIFE INSURANCE WITH-  
IN THIS STATE; passed April 8, 1851.\***

- SECTION 1.** Every life insurance company transacting business in this State, shall deposit one hundred thousand dollars in certain stocks or bonds and mortgages; regulations, &c.
2. Stocks, bonds and mortgages to be held as security for policy holders; companies may collect interest in certain cases; securities may be withdrawn on depositing other like securities; regulations as to title and value of real estate mortgaged.
  3. Agents not to act in this State without procuring certificates of authority.
  4. Companies from other States and foreign countries, to make and publish annual statements of their condition and affairs; contents thereof.
  5. An examination may be made into the affairs of any company when deemed expedient; proceedings thereon.
  6. Further proceedings when the assets are not sufficient to re-insure the outstanding risks.
  7. Certificates of authority to be revoked in certain cases.
  8. Proceedings when company desires to relinquish business.
  9. Penalty for violating provisions of act.
  10. Repealing section.

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\* This act was repealed by § 22, chap. 463 of the Laws of 1853, but such repeal is declared as not affecting companies which have been incorporated under this act and the act of April tenth, eighteen hundred and forty-nine.



## Chap. 80.

AN ACT IN RESPECT TO INSURANCES FOR LIVES FOR THE BENEFIT OF MARRIED WOMEN; passed April 1, 1840 (with amendments to January 1, 1866).

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Wife may insure life of husband. 1 Barb. Ch., 268. 3 Brad., 130.

§ 1. It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable, by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of the husband, or of any of his creditors; but such exemption shall not apply where the amount of premium annually paid out of the funds or property of the husband shall exceed three hundred dollars. [*Laws of 1840, chap. 80, § 1; as amended by Laws of 1858, chap. 187, § 1.*]

When payable to children.

§ 2. The amount of the insurance may be made payable, in case of the death of the wife before the decease of her husband, to his or to her children for their use, as shall be provided in the policy of insurance, and to their guardian, if under age. [*Laws of 1840, chap. 80, § 2; as amended by Laws of 1858, chap. 187, § 2, and by Laws of 1862, chap. 70, § 1.*]

## MISCELLANEOUS INSURANCE LAWS.

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### **Of Insurances on property in this State made in foreign countries, and by individuals and associations unauthorized by law.**

#### *Title 21, Chapter XX, Part I of the Revised Statutes (with amendments and additions).*

- SECTION** 1. Insurances against loss by fire, by foreigners or their agents, prohibited.
2. Penalty, and application thereof.
3. State tax to be paid by agents of fire and marine insurance companies of other States and foreign countries.
4. Persons not to act as agents without giving bond.
5. Penalty for making, &c., insurance without having given bond and application thereof.
6. Penalties, how collected and applied.
7. The provisions of this title extended to marine risks.
8. Preceding sections, 3, 4, 5, 6 and 7, repealed so far as they relate to fire insurance.
9. Agents of fire insurance companies of other States and foreign countries to pay two per cent on premiums to the fire department.
10. Agents shall give a bond, &c., before effecting insurances.
11. Penalty for insuring without having executed a bond.
12. Sections 1, 2, 3 and 4 of act passed March 30, 1849, repealed, so far as applicable to New York city; proviso.
13. Agents in the city of New York of fire insurance companies of other States and foreign countries to pay two per cent on premiums to the fire department.
14. Agents to annually render a verified account of premiums received to treasurer of fire department.
15. They shall give bond, &c., before effecting insurances.
16. When bond deemed insufficient, treasurer may require its renewal.
17. Penalty for insuring without having given bond, or for insuring without renewal of bond.
18. Treasurer of fire department to annually require of agents account; demand, how made; penalty for neglect of agent to render account.
19. Agents to report to Comptroller and to treasurer of fire department, his place of business, &c.; penalty for omission.
20. Duty, damages and penalties to be sued for by fire department.

21. Non-resident defendant may be arrested ; order of arrest may be obtained upon proof of non-residence, &c.
22. Certain provisions of Code to apply to arrest under the preceding section.
23. Repeal by first section of chap. 548, Laws of 1857, not to affect certain prosecutions or penalties.
24. Sections 1, 2, and 3 of chap. 178, act of 1849, to apply to cities and certain villages, &c.

Certain insurances by foreigners prohibited.

§ 1. No person, association, or company of persons residing in any foreign country, and no incorporation established in a foreign country, nor any person in behalf of them or any of them, shall, directly or indirectly, make any contract of insurance, or by way of insurance, against loss or injury by fire, upon any house, building or goods, situated or being in this State.\* [*Laws of 1814, chap. 49, § 1; and Revised Statutes, part I, chap. 20, title 21, § 1.*]

Penalty, and application thereof.

§ 2. Whoever shall offend against the foregoing provision, shall forfeit one thousand dollars, for the use of the poor of the county, where such illegal contract shall be made. [*Laws of 1814, chap. 49, § 2; and Revised Statutes, part I, chap. 20, title 21, § 2.*]

Amount to be paid into treasury by agents.

§ 3. There shall be paid into the treasury of this State, on the first day of February in each year, by every person who shall act as agent for any individuals, or associations of individuals, not incorporated and authorized by the laws of this State, to effect insurances against marine losses and risks, although such individuals or associations may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at

\* The following is the preamble to the original act of 1814, with a note contained in the Session Laws:

PREAMBLE. — *Whereas*, a certain company or association of persons in England, under the name of the "Phoenix Insurance Company," have appointed agents and established offices in this State for the purpose of making insurance in this State on behalf of the said English company or association: Therefore, &c.

NOTE. — As, during a state of war, foreigners, especially *alien enemies*, could not be coerced by any of our courts of justice to the performance of their contract, this act for this, among other reasons, was adopted by the Legislature. It is proper to mention that Chancellor KENT *dissented* to its passage in the Council of Revision.

that rate upon the amount of all premiums which, during the year ending on the preceding first day of September, shall have been received by such agent or any other person for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected or procured by him as such agent, or against marine losses or risks. [*Laws of 1824, chap. 277 ; and Revised Statutes, part I, chap. 20, title 21, § 3 ; as amended by the Laws of 1837, chap. 30, § 2, and by the Laws of 1849, chap. 178, § 6.*]

§ 4. No person shall, as agent for any individuals or association, effect or agree to effect any insurances, upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected until he shall have executed and delivered to the Comptroller a bond to the people of this State, in the penal sum of one thousand dollars, with such sureties as the Comptroller shall approve, with a condition that he will annually render to the Comptroller on the first day of February in each year, a just and true account of all premiums which, during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against (marine) losses which shall have been effected by him or agreed to be effected as such agent, or which shall have been procured by him from any individuals or association not authorized as aforesaid ; and that he will annually, on the first day of February in each year, pay into the treasury of this State two dollars upon the hundred dollars, and at that rate upon the amount of such premiums. [*Laws of 1824, chap. 277 ; Revised Statutes, part I, chap. 20, title 21,*

Persons  
not to act  
as agents  
without  
giving  
bond.

§ 4, as amended by the Laws of 1837, chap. 30, § 2, and by the Laws of 1849, chap. 178, § 6, and see § 7, post.]

Penalty for making insurance without having given bond.

§ 5. Every person who shall effect, agree to effect, or procure any insurance specified in the preceding third section of this title, without having executed and delivered such bond, shall forfeit five hundred dollars, for the use of the poor of the county, where the offense shall be committed. [*Laws of 1824, chap. 277; and Revised Statutes, part I, chap. 20, title 21, § 5.*]

Penalties, how collected and applied.

§ 6. The penalties imposed in this title shall be collected in the name of the people of this State, by the district attorney of the county where the offense shall be committed, for the use of the poor thereof. [*Revised Statutes, part I, chap. 20, title 21, § 6.*]

Provisions of R. S. applicable to marine risks.

§ 7. All the provisions of title twenty-first of chapter twenty of the first part of the Revised Statutes, respecting insurance on property in this State, made in foreign countries and by individuals and associations unauthorized by law, and all the prohibitions, requirements and penalties therein contained, are hereby extended and applied to contracts of insurance, or by way of insurance against marine losses and risks, or by lending money on respondentia or bottomry, and to all persons, associations or companies, and agents of the same, making, effecting or procuring any such insurance or contracts, by way of insurance or loan, or any other business which marine insurance companies incorporated by the laws of this State may or do transact by virtue of their respective acts of incorporation. [*Laws of 1829, chap. 336, § 1.*]

Repeal of preceding sections 3, 4, 5, 6, 7, so far as they relate to fire insurance.

§ 8. All the provisions of sections three, four, five, six, seven, of the title twenty-one, chapter twenty, of the first part of the Revised Statutes, as amended by act of the 21st February, 1837, so far as they relate

to fire insurance, are hereby repealed. [*Laws of 1849, chap. 178, § 6.*]

§ 9. There shall be paid to the treasurer of the fire department of the city of New York, for the use and benefit of said fire department, on the first day of February in each year, by every person who shall act in the city and county of New York, as agent for or on behalf of any individual, or association of individuals, not incorporated by the laws of this State, to effect insurances against losses or injury by fire in the city and county of New York, although such individuals or associations may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate, upon the amount of all premiums which during the year or part of a year, ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected or promised by him, as such agent or otherwise, against loss or injury by fire in the city and county of New York. [*Laws of 1849, chap. 178, § 1.*]

This section repealed, so far as it relates to New York city. See § 12, *post.*

Moneys to be paid to treasurer of fire department, &c.

§ 10. No person shall, in the city and county of New York, as agent or otherwise, for any individual, individuals, or association, effect or agree to effect any insurance, upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected, until he shall have executed and delivered to the said treasurer a bond to the fire department of the city of New York, in the penal sum of one thousand dollars, with such sureties as the said treasurer shall approve, with a condition that he will annually render to the said treasurer on the first day of February in each year, a

This section repealed, so far as it relates to New York city. See § 12, *post.*

Insurance  
by certain  
agents  
when to be  
effected.

just and true account, verified by his oath, that the same is just and true, of all premiums, which during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire in the city and county of New York, which shall have been effected or promised by him, or agreed to be effected or promised by him to be effected, from any individual or individuals, or association not incorporated by the laws of this State as aforesaid; and that he will annually, on the first day of February in each year, pay to the said treasurer two dollars upon every hundred, and at that rate, upon the amount of such premiums. [*Laws of 1849, chap. 178, § 2.*]

This section  
repealed so  
far as it  
relates to  
New York  
city.  
See § 12,  
*post.*

Penalty for  
not execut-  
ing  
bond.

§ 11. Every person who shall effect, agree to effect, promise, or procure any insurance specified in the preceding sections of this act, without having executed and delivered the bond required by the preceding section, shall for each offense forfeit one thousand dollars for the use of the said fire department; such penalty of one thousand dollars shall be collected in the name of the fire department of the city of New York. [*Laws of 1849, chap. 178, § 3.*]

Sections 1,  
2, 3, and 4  
of chapter  
178 of Laws  
of 1849, so  
far as they  
relate to  
New York  
city, &c.,  
repealed.

§ 12. Sections one, two, three and four of an act entitled "An act further to amend the acts in relation to insurances on property in this State, made by individuals and associations unauthorized by law," passed March thirty, eighteen hundred and forty-nine, so far as the said sections are applicable to the city and county of New York, but no further, are hereby repealed, and the following ten sections are substituted therefor:

Providso.

*Provided, however,* that any corporation or association created by or organized under the laws of any

government other than the States of this Union, and having assets, funds or capital, not less in amount than one hundred and fifty thousand dollars invested in this State, shall be liable to taxation upon such assets, funds or invested capital, as the same is levied or assessed yearly by law, which tax shall be paid as follows: such an amount thereof as would be equal to two per cent upon its gross premiums received for insurances upon property in the city of New York, shall be paid annually as hereinbefore provided to the treasurer of the fire department of the city of New York, and the residue of said tax requisite to make up the full amount of taxation upon its capital as hereinbefore provided, shall be paid to the mayor, aldermen and commonalty of the city of New York, as in the case of ordinary taxation; and the payments so made as aforesaid shall exempt such corporation or association making the same from any and all further taxation upon its premiums, capital or assets; and whenever such capital shall be reduced below said sum of one hundred and fifty thousand dollars, or withdrawn entirely, then and in either event such corporation or association shall be liable to pay the tax upon its premiums as heretofore provided in this act. [*Laws of 1857, chap. 548, § 1, as amended by Laws of 1858, chap. 255, § 1.*]

§ 13. There shall be paid to the treasurer of the fire department of the city of New York, for the use and benefit of said fire department, on the first day of February, in each year, by every person who shall act in the city and county of New York as agent for or on behalf of any individual or association of individuals, not incorporated by the laws of this

Moneys to be paid to fire department, New York.



State, to effect insurances against losses or injury by fire in the city and county of New York, although such individuals or association may be incorporated for that purpose by any other state or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which during the year ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance against loss or injury by fire in the city and county of New York, effected or agreed to be effected or promised by him as such agent. [*Laws of 1857, chap. 548, § 1, sub. 1.*]

Agents to annually render a verified account of premiums received to treasurer of fire department.

§ 14. Every person who shall act in the city and county of New York as agent as aforesaid, shall, on the first day of February, in each year, render to the said treasurer of the fire department a just and true account, verified by his oath, of all such premiums which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him or which shall have been agreed to be paid, for any such insurance effected or agreed to be effected, or promised by him. [*Laws of 1857, chap. 548, § 1, sub. 2.*]

Insurance by certain agents, when to be effected.

§ 15. No person shall, as agent or otherwise, effect or agree to effect or procure to be effected, any insurance upon which the duty above mentioned is required to be paid, until he shall have executed and delivered to the said treasurer an undertaking, under seal, to the fire department of the city of New York, with such sureties as the said treasurer shall approve, that he will annually render to the said treasurer, on the first day of February, in each year, a just and true account, verified by his oath, of all such premiums,

which, during the year ending on the first day of September preceding, shall have been received by him or by any person for him, or which shall have been agreed to be paid for any such insurance effected or agreed to be effected, or promised by him, and that he will annually, on the first day of February in each year, pay to the said treasurer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums. [*Laws of 1857, chap. 548, § 1, sub. 3.*]

§ 16. Whenever, by reason of failure of the sureties, or either of them, or for any other cause, an undertaking given under the last preceding section, shall or may be deemed insufficient by the said treasurer to secure a return of the account and the payment of the duty aforesaid, or either of them, the said treasurer, at his election, but not oftener than once in each year, may require such undertaking to be renewed. [*Laws of 1857, chap. 548, § 1, sub. 4.*]

When bond deemed insufficient, treasurer may require its renewal.

§ 17. Every person who shall effect, agree to effect, promise or procure any insurance mentioned in the first four sections of the said act as hereby amended, without having executed and delivered the undertaking required by the third section of said act as hereby amended, shall for each offense forfeit one thousand dollars, for the use of the said fire department; and every person who shall have been required by the said treasurer to renew his undertaking pursuant to the fourth section of said act as hereby amended, who shall effect, agree to effect, promise or procure any such insurance, without having executed and delivered the renewed undertaking, required by said last mentioned fourth section, shall for each offense forfeit one thousand dollars, for the use of the said fire department. [*Laws of 1857, chap. 548, § 1, sub. 5.*]

Penalty for not executing bond.

Penalty for not renewing bond.

Treasurer  
of fire de-  
partment to  
annually  
require of  
agents ac-  
counts.

§ 18. It shall be lawful for the said treasurer of the fire department, on or after the first day of February in each year, by written or printed demand signed by him, to require from every person who shall act in the city and county of New York, as agent as aforesaid, the account provided for in the second section of said act as hereby amended, and payment of the duty provided for in the first section thereof; such demand may be delivered personally to such agent, or at his office or place of business to any person having charge thereof, or at his residence to any person of suitable age. And every such agent who shall for ten days after such demand, neglect to render the account or to pay the duty demanded, or either of them, shall forfeit fifty dollars for the use of the said fire department; and he shall also forfeit for their use twenty-five dollars in addition for every day that he shall so neglect, after the expiration of said ten days, and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof. [*Laws of 1857, chap. 548, § 1, sub. 6.*]

Penalty for  
neglect of  
agent to  
render ac-  
count.

Agents to  
state where  
their places  
of business  
are in New  
York.

§ 19. Every person who shall act in the city and county of New York as agent as aforesaid, shall, on the first day of February in each year, or within ten days thereafter, and as often in each year as he shall change his place of business in the said city, report in writing under his proper signature to the Comptroller of the State and also to the treasurer of the said fire department, the street and the number thereof in the said city of his place of business as such agent, designating in such report the individual or individuals and association or associations for which he shall be such agent. And in case of default in any of these particulars, such person shall forfeit for

every offense the sum of one thousand dollars for the use of the said fire department. [*Laws of 1849, chap. 178, § 4; as amended by Laws of 1857, chap. 548, § 1, sub. 7.*]

§ 20. The duty provided to be paid by the first section of said act as hereby amended, the damages for any breach of the undertakings, or either of them, provided for in the third and fourth sections thereof, and the pecuniary penalties imposed by said act as hereby amended, or any or either of them, may be sued for and recovered with costs of suit in any court of record within this State by the fire department of the city of New York in their own name and for their own use. [*Laws of 1857, chap. 548, § 1, sub. 8.*]

Duty; damages and penalties to be sued for by fire department.

§ 21. The defendant in any action to be brought for the recovery of any penalty incurred or any duty or sum of money payable under said act as hereby amended, may be arrested if he is not a resident of this State or is about to remove therefrom. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought or from a county judge. The order shall be made when it shall appear to the judge by affidavit that a sufficient cause of action exists under said act as hereby amended, and that the defendant is not a resident of this State or is about to remove therefrom. [*Laws of 1857, chap. 548, § 1, sub. 9.*]

Non-resident defendant may be arrested.

Order to be obtained.

§ 22. The provisions of chapter one of title seven of an act entitled "An act to amend the act entitled 'An act entitled to simplify and abridge the practice, pleadings and proceedings of the courts of this State,' passed April twelfth, eighteen hundred and forty-eight," passed April eleventh, eighteen hundred and forty-nine, and which chapter is entitled "Arrest and bail," from and including section one hundred

Certain provisions of the Code to apply to arrest under preceding section.

and eighty-two to the end of said chapter, shall apply to any arrest under the ninth section of said act as hereby amended and to the proceedings thereupon. [*Laws of 1857, chap. 548, § 1, sub. 10.*]

Repeal by  
first section  
not to affect  
certain  
prosecu-  
tions or  
penalties.

§ 23. The repeal by the first section of this act shall not affect any prosecution or action commenced, or penalty, duty or liability incurred, or cause of action accrued prior to the passage of this act, but every such action or prosecution may lawfully proceed, and every such penalty, duty or liability may be demanded and recovered as if the sections one, two, three and four repealed as aforesaid had remained in full force. [*Laws of 1857, chap. 548, § 2.*]

Sections 1,  
2 and 3 to  
apply to  
every city  
and village.

§ 24. Sections one, two and three of this act shall apply to every city or incorporated village in this State where a treasurer of a fire department exists, and where no officer is known by the laws of such city or village, the treasurer of such city or incorporated village shall exercise all the powers and perform all the duties, for the purposes of this act, of the treasurer of the fire department of the city of New York, as far as relates to the city or village of which he is treasurer; and he shall, under the direction of the common council of the city or the trustees of the village, pay over all moneys received or recovered under the first, second and third sections of this act, to the fire department of such city or incorporated village; *provided, however*, that the penalty of the bond required by the second section of this act shall not exceed the sum of five hundred dollars, when taken by the person authorized to receive it by this section, and that the penalty imposed by the third section of this act shall not exceed the sum of two hundred dollars in any city or village of this State, excepting the city of New York. [*Laws of 1849, chap. 178, § 5.*]

Proviso.

## Miscellaneous Provisions relating to Insurance Companies.

- SECTION**
1. Provisions as to members of mutual insurance companies.
  2. Mutual insurance companies may loan certain moneys.
  3. Bonds and mortgages received on such loans valid.
  4. Insurance companies required to publish annually a statement of dividends and interest declared on stock, &c., unclaimed for the then next two preceding years.
  5. Receivers of mutual insurance companies empowered to make assessments on premium notes; notice of assessment to be given.
  6. Receiver authorized to receive voluntary surrender of policies or cancel policies.
  7. Court, on action instituted by receiver, to examine acts of corporation; action of court when directors have misapplied funds, &c., of corporation.
  8. When assignment made by insurance company for benefit of creditors and trust vests in Supreme Court, the persons appointed to execute the trust are to possess certain powers.
  9. Members of mutual fire insurance companies not to vote by proxy.
  10. Limited partnerships cannot be formed for the purpose of making insurance.
  11. Insurance companies may change dates of the termination of their fiscal years in certain cases.
  12. Certain public officers having the custody of public buildings to insure them.
  13. Trustees of school districts to insure school houses.

§ 1. Every person becoming a member of any mutual insurance company now incorporated under any law of this State in any of the counties of this State, by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors of said company; such part of said note, not exceeding twenty per cent, as shall be required by the by-laws of the corporation, shall be immediately paid, and the remainder of the said deposit note shall be payable, in whole or in part, as the exigencies of the company shall require, for the payment of losses by fire and the incidental expenses of the company. At the expiration of the term of insurance, the said

Provision  
respecting  
member-  
ship to mu-  
tual insur-  
ance com-  
panies.  
19 N. Y., 32.  
16 N. Y.,  
210.  
12 N. Y.,  
569.  
9 N. Y., 599.  
8 N. Y., 512.  
4 N. Y., 51.  
3 N. Y., 280.  
1 N. Y., 371.  
23 Barb.,  
656.  
21 Barb.,  
605.  
19 Barb.,  
440.  
16 Barb.,  
254.  
11 Barb.,  
305, 323.  
5 Denio, 154  
7 Hill, 49.

3 Hill, 161,  
508.  
1 Duer, 114.  
4 Sandford  
S. C., 230.  
2 Sandford  
S. C., 180.  
1 Sandford  
S. C., 63.  
158, 171, 184,  
481, 639.

Mutual  
insurance  
companies  
may loan  
certain  
moneys.

Bonds and  
mortgages  
received by  
mutual in-  
surance  
companies,  
valid.

Insurance  
companies  
to publish  
annually  
statement  
of divi-  
dends and  
interest  
which shall  
have been  
unclaimed  
for ten  
years.

note or such part of the same as shall remain unpaid after receiving thereon from the maker a proportionate share for all losses and expenses occurring during said term, shall be relinquished by the company to the maker, and it shall be lawful for the company to loan such portion of the money as may not be immediately wanted for the use of the corporation, provided the same shall be secured by a bond and a mortgage on unincumbered real estate, of double the value of the sum loaned. [*Laws of 1848, chap. 205, § 1.*]

§ 2. Any mutual insurance company heretofore incorporated in this State whose charter limits the amount to be paid down upon premium notes to a sum not exceeding five per cent, may loan such portion of the said five per cent as may not be immediately wanted for the purposes of the corporation, upon good and ample security by bond or promissory notes. [*Laws of 1840, chap. 287, § 1.*]

§ 3. All bonds and promissory notes heretofore taken by any such mutual insurance company for money loaned, shall be valid, and may be collected by such company. [*Laws of 1840, chap. 287, § 2.*]

§ 4. Every insurance company or association for fire, marine or life risks, conducted on the mutual principle or otherwise, now or hereafter incorporated or organized, or doing business under any general or special law of this State, on or before the first day of September next, and annually thereafter shall cause to be published for six successive weeks, in one public newspaper printed in the county in which such company or association may be located, and in the State paper, a true and accurate statement, verified by the oath of the treasurer or presiding officer, of all dividends and interests declared and payable upon any of the stock, bonds or other evidence of indebt-

edness of said company or association, which, at the date of such statement, shall have remained unclaimed by any person or persons authorized to receive the same, for two years then next preceding; and the word "dividend," shall include all scrip issued or declared due for unpaid earnings or profits. [*Laws of 1855, chap. 75, § 2.*]

§ 5. In case the corporation in regard to which a receiver has been or shall hereafter be appointed is or shall be a mutual insurance company, such receiver shall have full power, under the authority and sanction of the court appointing him, to make all such assessments on the premium notes belonging to such corporation as may be necessary to pay the debts of such corporation, as by the charter thereof the directors of such corporation have authority to make; and the notice of such assessment may be given in the same manner as is provided in the charter of said company for the directors of said company to give; and the said receiver shall have the like rights and remedies upon and in consequence of the non-payment of such assessments as are given to the corporation or the directors thereof by the charter of such corporation. [*Laws of 1852, chap. 71, § 2.*]

Receivers  
to make  
assessment  
on premi-  
um notes.  
25 Barb.,  
109.  
23 Barb.,  
656.  
15 Barb.,  
264.

Notice of  
assessment  
to be given.

§ 6. Such receiver is authorized to receive a voluntary surrender of all policies issued by such corporation or to cancel the policies issued by such corporation in all cases where, by the charter of such corporation, the directors thereof are authorized to receive the surrender of or cancel the policies issued by such corporation. [*Laws of 1852, chap. 71, § 3.*]

Surrender  
of policies.

§ 7. The court by which any such receiver may have been or shall be appointed is authorized, upon a proper action instituted for that purpose by such receiver, to examine by a reference or otherwise as it

Receiver to  
examine  
acts of cor-  
poration.



may deem proper into the proceedings and acts of such corporation ; and if it shall appear upon such examination that the directors or officers of such corporation or either or any of them have in any manner misapplied or improperly disposed of the funds, property or effects of such corporation, it shall be lawful for such court to decree that such directors or officers of such corporation as shall have been guilty of such misapplication or improper disposition of such funds, property or effects to pay the same to such receiver, and to enforce such decree by such process as may be necessary to accomplish that object. [*Laws of 1852, chap. 71, § 4.*]

When assignment made by insurance company for benefit of creditors and trust vests in Supreme Court.

Persons appointed to execute trust to possess certain powers.

§ 8. Whenever any insurance company or corporation shall have made an assignment of its property and effects to any person or persons in trust for the benefit of all its creditors, and such trust shall from any cause have become vested in the Supreme Court, the person or persons appointed by the said court for the purpose of executing such trust shall have and possess all the powers and authority conferred and be subject to all the obligations and duties imposed in article third, title four, part third and chapter eight of the Revised Statutes, upon receivers appointed in case of the voluntary dissolution of a corporation ; and shall in addition thereto have and possess the same power and authority conferred, and be subject to the same duties and obligations imposed upon receivers in certain cases by the act entitled "An act to facilitate the collection of debts against corporations," passed March nineteenth, eighteen hundred and fifty-two, and shall in all respects be subject to the control and direction of the said court. [*Laws of 1854, chap. 224, § 1.*]

§ 9. No member of any mutual fire insurance company, organized under the laws of this State, shall be allowed to vote by proxy for a director or directors of any such company. [*Laws of 1851, chap. 188, § 1.*]

Members of mutual fire insurance companies not to vote by proxy.

§ 10. Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business, within this State, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities, herein prescribed; but the provisions of this title shall not be construed to authorize any such partnership for the purpose of banking or making insurance. [*Laws of 1822, chap. 244, § 2, and Revised Statutes, part II, chap. IV, title 1, § 1.*]

Purposes of limited partnership &c.  
11 How. Pr., 392.  
7 Paige, 585.

§ 11. All fire, marine, and life insurance companies now required, or which may hereafter be required, to make annual statements to the Insurance Department, for the year ending on the last day of December, are hereby authorized and empowered to change the date of the termination of their fiscal year to the thirty-first day of December; and all statements, reports, dividends, and balances, now required by law to be made, and all other acts required to be done by said companies, at the termination of their fiscal year or years, or within a limited time thereafter, may be made out and done on the last day of December, and within the same period thereafter, in lieu of such other days of the year, or periods of time, as are now designated by their charter or otherwise. [*Laws of 1861, chap. 326, § 2.*]

Insurance companies may change dates of the termination of their fiscal years in certain cases.

§ 12. The public officers having by law the care and custody of town, village, city or county buildings, are hereby authorized to insure the same at

Public buildings to be insured.

the expense and for the benefit of the town, village, city or county owning the same. [*Laws of 1847, chap. 294.*]

School  
houses to  
be insured.

§ 13. The trustee or trustees of any school district in this State, are hereby authorized, if a majority of the legal voters present shall, at any regularly called school district meeting, so direct, to insure the school house or school houses belonging to said district, in any insurance company organized and established under the laws of this State; and they are hereby empowered to comply with all the conditions of insurance of any such company. [*Laws of 1860, chap. 314.*]

## Chap. 279.

AN ACT TO FACILITATE THE SERVICE OF PROCESS  
ON INSURANCE AND OTHER CORPORATIONS DOING  
BUSINESS IN THIS STATE ; passed April 10, 1855.

- SECTION 1. Insurance and other corporations of other States, doing business in this State, to designate persons upon whom process may be served ; such designation to be filed in office of Secretary of State ; certified copy to be evidence of appointment.
2. Where designation not made, process to be served upon any person acting as agent for corporation.
  3. Service in accordance with act, deemed as effectual as personal service.
  4. Term process includes writ, summons or order by which suit shall be commenced, &c.
  5. Act when to take effect.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

§ 1. Every insurance and other corporation created by the laws of any other State, doing business in this State, shall, within thirty days after the passage of this act, designate some person residing in each county where such corporation transacts business, on whom process issued by authority of, or under any law of this State may be served, and within the time aforesaid shall file such designation in the office of the Secretary of State ; and a copy of such designation, duly certified by said officer, shall be evidence of such appointment ; and it shall be lawful to serve on such person so designated, any process issued as aforesaid ; such service shall be made on such person in such manner as shall be prescribed in case of service required to be made on any resident of this State, and such service shall be deemed a valid service thereof. [*Laws of 1855, chap. 279, § 1.*]

Insurance and other corporations of other States doing business in this State to designate persons upon whom process to be served. 30 Barb., 162. 34 Barb., 151.

Designation to be filed in office of Secretary of State.

When designation not made, process to be served upon any person acting as agent, &c.

§ 2. In all cases where such designation shall not be made as aforesaid, and such foreign corporation cannot be served with such process according to the present provisions of law, it shall be lawful to serve such process on any person who shall be found within this State acting as the agent of said corporation, or doing business for them. [*Laws of 1855, chap. 279, § 2.*]

Service as provided for in this act deemed effectual.

§ 3. Service made in accordance with any provision of this act shall be as effectual as if made in the form and manner required by law, and shall be deemed a full compliance with any statute requiring personal or other service to be made. [*Laws of 1855, chap. 279, § 3.*]

Term process includes writ, summons or order by which suit is commenced.

§ 4. The term process in this act, shall be held and deemed to include any writ, summons, or order, whereby any action, suit or proceeding shall be commenced or which shall be issued in or upon any action, suit or proceeding, by any court, officer, or magistrate. [*Laws of 1855, chap. 279, § 4.*]

• § 5. This act shall take effect immediately.

## Chap. 168.

## AN ACT TO AUTHORIZE THE FORMATION OF COMPANIES FOR THE RECOVERY OF STOLEN HORSES, CATTLE AND SHEEP, AND THE APPREHENSION OF THE THIEVES, AND TO INSURE AGAINST THE LOSS OF THE SAME BY BEING STOLEN ; passed April 7, 1859.

- SECTION 1. Any number of persons, not less than twenty, authorized to form a company for mutual insurance against loss or damage by having had stolen horses, cattle and sheep, &c.
2. Companies to choose directors ; term of office ; officers.
  3. Duties of directors ; articles of association to be filed in town clerk's office ; duties of secretary.
  4. Company may issue policies.
  5. Persons insured to give an undertaking to pay *pro rata* share of losses ; undertaking to be filed ; cash percentage to be paid.
  6. Members sustaining losses to notify president ; other proceedings thereon.
  7. When losses exceed cash funds, directors shall make an assessment.
  8. Duties of secretary in collection of assessment.
  9. Actions may be brought against members neglecting to pay assessment ; directors personally liable in certain cases.
  10. Directors, how and when chosen.
  11. Duty of secretary to prepare an annual statement to be filed in town clerk's office and read at annual meeting.
  12. How members of companies may withdraw therefrom ; policies may be annulled.
  13. Companies may adopt certain by-laws.
  14. Duration of company.
  15. When act to take effect.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

§ 1. It shall be lawful for any number of persons, not less than twenty, residing in this State, to form themselves into an incorporated company for the purpose of mutual insurance against loss or damage, by having had stolen any horse or horses, cattle or sheep, or any loss or expense incurred in recovering such animals as may have been so stolen,

Companies  
may be  
formed.

or in the apprehension of the thief or thieves, which corporation shall possess the usual powers and be subject to the usual duties of corporations, as defined in title three, chapter eighteen, part first of Revised Statutes, and the corporate name whereof shall embrace the name of the town in which the business office of said company shall be located. [*Laws of 1859, chap. 168, § 1.*]

Directors.

§ 2. Every company so formed, shall choose of their number not less than five nor more than nine directors, to manage the affairs of such company, who shall hold their office for one year, and until others are elected, and such directors shall choose one of their number president, and one as secretary. [*Laws of 1859, chap. 168, § 2.*]

Term of office.

Articles of association to be filed.

§ 3. The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the town clerk's office of the town in which the office of such company is located, and which town shall be the residence of the secretary of said company, and said secretary shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of the persons insured, and the amount each person is insured, which record shall be open for the inspection of all the members of such company from nine o'clock A. M., to four o'clock P. M., of each secular day, the established holidays excepted. [*Laws of 1859, chap. 168, § 3.*]

Policies.

§ 4. The company may issue policies signed by their president and secretary, agreeing in the name of such company to pay all damages which may be sustained from the stealing of such animals, and the recovery thereof, and the apprehension of the thief

or thieves, for a term not exceeding five years, by the holders of such policies, not exceeding the sum named in said policy, and which shall not exceed the sum of five hundred dollars. [*Laws of 1859, chap. 168, § 4.*]

§ 5. Every person so insured shall give his undertaking to said company, bearing even date with said policy so issued to him, binding himself, his heirs and assigns, to pay his *pro rata* share to the company, of all losses by the stealing and the recovery of such animals, and the apprehension of the thief or thieves, which may be sustained by any member thereof, and every such undertaking shall, within five days after the execution thereof, be filed by the secretary of such company, in the town clerk's office of the town in which the office of said company is located, and shall remain permanently on file in such office, except when required to be produced in evidence in court, and when so used shall be immediately returned to said office of said town clerk. He shall also, at the time of affecting such insurance, pay such per centage in cash, and such reasonable sum for a policy, as may be required by the rules or by-laws of said company. [*Laws of 1859, chap. 168, § 5.*]

Undertak-  
ings to be  
given.

Contents  
thereof, and  
when filed.

§ 6. Every member of such company who may sustain damages or loss by the stealing of such animals, the expense of the recovery thereof, and necessary expense of the apprehension of the thief therein, shall immediately notify the president or secretary of said company, who shall forthwith convene the directors, whose duty it shall be when so convened, to appoint a committee of not less than three nor more than five members of such company, to ascertain the amount of such loss or damage; and in case

Duty in  
case of loss  
or damage.



of the inability of the parties to agree upon the amount of such loss or damage, the claimant may appeal to the county judge of the county, whose duty it shall be to appoint, by a writing signed by him, three disinterested persons as a committee of reference, who shall have full authority to examine witnesses and to determine all matters of dispute, who shall make their award in writing to the president or secretary of such company within twenty days after the hearing, which award so made shall be final. The said committee of reference shall each be allowed two dollars per day for each day's service so rendered, and which shall be paid by the claimant, unless the said award of said committee shall exceed the sum offered to be paid by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. [*Laws of 1859, chap. 168, § 6.*]

Assessment  
when to be  
made.

§ 7. Whenever the amount of any loss or damages shall have been ascertained which exceeds in amount the cash funds of the company then on hand, the president shall convene the directors of said company, who shall make an assessment upon each member of the company in proportion to the amount insured by him, sufficient to pay such loss and damages, and a sum not exceeding ten per cent in addition thereto, to be determined by said directors. [*Laws of 1859, chap. 168, § 7.*]

Duty of sec-  
retary.

§ 8. It shall be the duty of the secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to him post-paid at his usual post-office address, of the amount of such loss and damages, and of the sum due from him as his share thereof, and

of the time when and to whom payment is to be made, but such time shall not be less than thirty nor more than ninety days from the date of such notice, and every such person so designated to receive such money, may demand and receive two per cent in addition to the amount due on such assessment, for his fees in receiving and paying over such money. [*Laws of 1859, chap. 168, § 8.*]

§ 9. Actions at law may be brought against any member of such company, who shall neglect or refuse to pay any such assessment made upon him or them, under the provisions of this act, and the directors of any such company so formed, who shall willfully refuse or neglect to perform the duties imposed upon them by this act, shall be liable in their individual capacity, to the person or persons sustaining such loss or damage. [*Laws of 1859, chap. 168, § 9.*]

Liability of  
members.

§ 10. The directors of such company shall be chosen by ballot at the annual meeting of the members of the company, which shall be held on the second Tuesday of January in each year, at the business office of said company, and every person insured shall have one vote, but no person shall be allowed to vote by proxy at such elections. [*Laws of 1859, chap. 168, § 10.*]

Election of  
directors.

§ 11. It shall be the duty of the secretary of every such company to prepare a statement showing the condition of such company on the day preceding their annual meeting, verified by the affidavit of said secretary attached thereto; which statement shall contain the number of policies issued, and all other matters pertaining to the interests of such company; which statement shall be filed in the office of the clerk of the town in which such company is located, on or

Secretary to  
prepare  
statement.

before the twenty-fifth day of January in each year, and which statement shall also be read to the members of such company when assembled at their annual meeting. [*Laws of 1859, chap. 168, § 11.*]

Withdrawal  
of mem-  
bers.

§ 12. Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president or secretary of such company twenty days prior to such withdrawal, and paying his share of all claims then existing against said company ; and the directors or a majority thereof, shall have power to annul any policy, by giving twenty days' notice, in writing, of their intention to do so, to the holder of such policy, and when so annulled said policy shall be void, and the undertaking given on issuing said policy shall also be void. [*Laws of 1859, chap. 168, § 12.*]

By-laws.

§ 13. The company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers. [*Laws of 1859, chap. 168, § 13.*]

Continu-  
ance.

§ 14. No company formed under this act shall continue for a longer period than thirty years. [*Laws of 1859, chap. 168, § 14.*]

§ 15. This act shall take effect immediately.

## Chap. 504.

AN ACT TO PROVIDE FOR AN INVESTIGATION INTO  
THE ORIGIN OF FIRES IN CERTAIN CASES; passed  
April 15, 1857; three-fifths being present.

- SECTION 1. When it appears by affidavit that building has been maliciously set on fire, coroners or sheriff, to whom affidavit presented, to investigate truth.
2. Powers of coroners.
3. Jury, after inspection and hearing testimony, shall deliver to officer inquisition; what inquisition to contain.
4. If jury find building to have been maliciously set on fire, officer is to bind over witnesses to appear and testify; officer holding inquest authorized to issue process for arrest.
5. Power of officer issuing process, as to examination, same as justice.
6. Testimony of witnesses to be reduced to writing, and with other documents to be returned to next criminal court of record.
7. Compensation and expenses of officers, how paid.
8. Act not to extend to New York, Brooklyn and Buffalo.
9. General superintendent of police of city of New York required to make an investigation into origin of fires in said city.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

§ 1. Whenever it shall be made to appear by the affidavit. affidavit of a credible witness, that there is ground to believe that any building has been maliciously set on fire or attempted to be, any coroner, sheriff or deputy sheriff of the county in which such crime is supposed to have been committed, to whom such affidavit shall be delivered and who shall be requested, in writing, by the president, secretary or agent of any insurance company, or by two or more reputable freeholders to investigate the truth of such belief, shall do so without delay. [Laws of 1857, chap. 504, § 1.]

Investigation, when to be made.

§ 2. For this purpose he shall possess all the powers conferred upon coroners for the purpose of holding

Powers of coroner.

inquests by the first four sections of article first of title seventh of chapter second of part fourth of the Revised Statutes. [*Laws of 1857, chap. 504, § 2.*]

Jury and  
their duty.

§ 3. The jury, after inspecting the place where the fire was or was attempted, and after hearing the testimony, shall deliver to the officer holding such inquest their inquisition in writing, to be signed by them, in which they shall find and certify how and in what manner such fire happened or was attempted, and all the circumstances attending the same and who were guilty thereof, either as principal or accessory, and in what manner. But if such jury shall be unable to ascertain the origin and circumstances of such fire, they shall find and certify accordingly. [*Laws of 1857, chap. 504, § 3.*]

If guilty.

§ 4. If the jury find that any building has been designedly set on fire or has been attempted so to be, the officer holding such inquest shall bind over the witnesses to appear and testify at the next criminal court, at which an indictment for such offense can be found that shall be held in the county. And in such case, if the party charged with any such offense be not in custody, the officer holding such inquest shall have power to issue process for his arrest in the same manner as justices of the peace. [*Laws of 1857, chap. 504, § 4.*]

Officer issuing  
process.

§ 5. The officer issuing such process shall have the same power to examine the party arrested as is possessed by a justice of the peace, and shall in all respects proceed in like manner. [*Laws of 1857, chap. 504, § 5.*]

Witnesses.

§ 6. The testimony of all witnesses examined before the jury under this law, shall be reduced to writing by the officer holding the inquest, and shall be returned by him together with the inquisition of the

jury, and all recognizances and examinations taken by such officer, to the next criminal court of record that shall be held in such county. [*Laws of 1857, chap. 504, § 6.*]

§ 7. The compensation of the officers holding such inquest, and their actual and necessary expenses under this act, shall be fixed, audited and paid in the same manner as the compensation and actual and necessary expenses of coroners are now provided for by law. [*Laws of 1857, chap. 504, § 7.*]

Pay of officers.

§ 8. This act shall not extend to the cities of New York, Brooklyn and Buffalo. [*Laws of 1857, chap. 504, § 8.*]

Not to extend to New York, Brooklyn, and Buffalo.

§ 9. The general superintendent of police of the city of New York is hereby authorized and required to make an investigation into the origin of every fire occurring in said city; and for that purpose he is hereby invested with the same powers and jurisdiction as are now possessed by the police justices of said city. [*Laws of 1852, chap. 332, § 1; as modified by Laws of 1857, chap. 569, § 36.*]

General superintendent of police New York city.

## Chap. 412.

### AN ACT TO FACILITATE THE CLOSING UP OF INSOLVENT AND DISSOLVED MUTUAL INSURANCE COMPANIES ; passed April 21, 1862.

- SECTION 1. When controversy between receiver of dissolved mutual insurance company and stockholders, &c., a referee may be appointed.
2. Proceedings had before the referee, powers, duties and compensation ; appeal not to suspend execution of judgment, unless certificate, &c., filed, showing probable error.
  3. Notice of hearing same as now required by the rules of Supreme Court.
  4. Commission may be issued for examination of witnesses.
  5. Supreme Court empowered to refer actions.
  6. Prevailing party to recover disbursements only ; saving clause.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

Referee  
may be ap-  
pointed.

§ 1. If any controversy or disagreement shall arise between the receiver of an insolvent or dissolved mutual insurance company, in the settlement of any demand or claim against any member or stockholder of the company of which he is receiver, or any other person, or if after personal demand for payment of such demand or claim shall have been made, and the payment of the sum claimed be neglected or refused, the same may be referred to a sole referee who may be agreed upon by the receiver and the person against whom such demand or claim is made, by a writing to that effect signed by them, or upon application to any justice of the Supreme Court residing in the district where such receiver keeps his office as herein stated, and all controversies relating to such receiver's business may be referred to one referee in the discretion of the court. Such referee shall be appointed upon ten days' notice to the adverse party. [*Laws of 1862, chap. 412, § 1.*]

§ 2. The referee so appointed shall proceed in a summary manner to hear the proofs and allegations of the parties, upon written or oral pleadings, and shall have the same powers and be subject to the same duties and obligations, and shall receive the same compensation as referees appointed by the Supreme Court in personal actions pending therein, and upon his report a judgment may be entered in said court and be the judgment of said court, in the same manner; and the Supreme Court may, on appeal from said judgment to the general term, set aside the report of the said referee; but no appeal from such judgment shall suspend or delay the execution thereon, unless there shall be filed with the notice of appeal to the clerk of the court, a certificate of a justice of the Supreme Court, to the effect that there is probable error in the said judgment, nor unless security be given to the satisfaction of said justice for the payment of said judgment and the costs of the appeal, if said judgment be affirmed. [*Laws of 1862, chap. 412, § 2.*]

Proceedings before referee.

§ 3. All controversies before said referee shall be brought to a hearing upon notice to the adverse party, the same as now required by the rules and practice of the Supreme Court. [*Laws of 1862, chap. 412, § 3.*]

Notice of hearing.

§ 4. The referee so appointed, at any time after his appointment and without an issue of fact joined, shall have the same power and authority to issue a commission to examine witnesses relating to any controversy before him as a justice of the peace now has. [*Laws of 1862, chap. 412, § 4.*]

Commission to examine witnesses.

§ 5. The Supreme Court shall have power to refer all actions now pending therein, wherein any such

Power of Supreme Court.



receiver is a party, and where any controversy arises as mentioned in the first section of this act, such reference shall in no way prejudice the proceedings already had. [*Laws of 1862, chap. 412, § 5.*]

Disburse-  
ments.  
Saving  
clause.

§ 6. The prevailing party shall recover the disbursements to the controversy only. This act shall not affect the costs already made in actions pending, and the costs now incurred in actions pending shall abide the event of the action, not to exceed twenty dollars in cases where no judgment has been entered. Costs on appeal may be allowed in the discretion of the court, and may be absolute or directed to abide the event of the action. [*Laws of 1862, chap. 412, § 6.*]

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**Regulations to prevent the Insolvency of Moneyed Corporations, and to secure the Rights of their Creditors and Stockholders.**

*Vide Article First, Title 2, Chap. XVIII, Part I, Revised Statutes. (Vol. I, pp. 547-552, Edmonds' Edition.)*

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**Regulations concerning the Election of Directors of Moneyed Corporations, and the construction of certain terms.**

*Vide Articles Second and Third, Title 2, Chap. XVIII, Part I, Revised Statutes. (Vol. I, pp. 552-556, Edmonds' Edition.)*

**Of the General Powers, Privileges and Liabilities  
of Corporations.**

*Vide Title 3, Chap. XVIII, Part I, of the  
Revised Statutes. (Vol. I, pp. 556-558,  
Edmonds' Edition.)*

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**Special Provisions relating to certain Corporations.**

*Vide Title 4, Chap. XVIII, Part I, of the  
Revised Statutes. (Vol. I, pp. 558-562,  
Edmonds' Edition.)*

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**Of Proceedings against Corporations in Equity.**

*Vide Article Second, Title 4, Chapter VIII,  
Part III, Revised Statutes. (Vol. II,  
pp. 482-487, Edmonds' Edition.)*

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**Of the Voluntary Dissolution of Corporations.**

*Vide Article Third, Title 4, Chap. VIII,  
Part III, Revised Statutes. (Vol. II,  
pp. 488-494, Edmonds' Edition.)*

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**Regulations concerning the Assessment of Taxes  
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tation or Collection thereof.**

*Vide Title 4, Chap. XIII, Part I, Revised  
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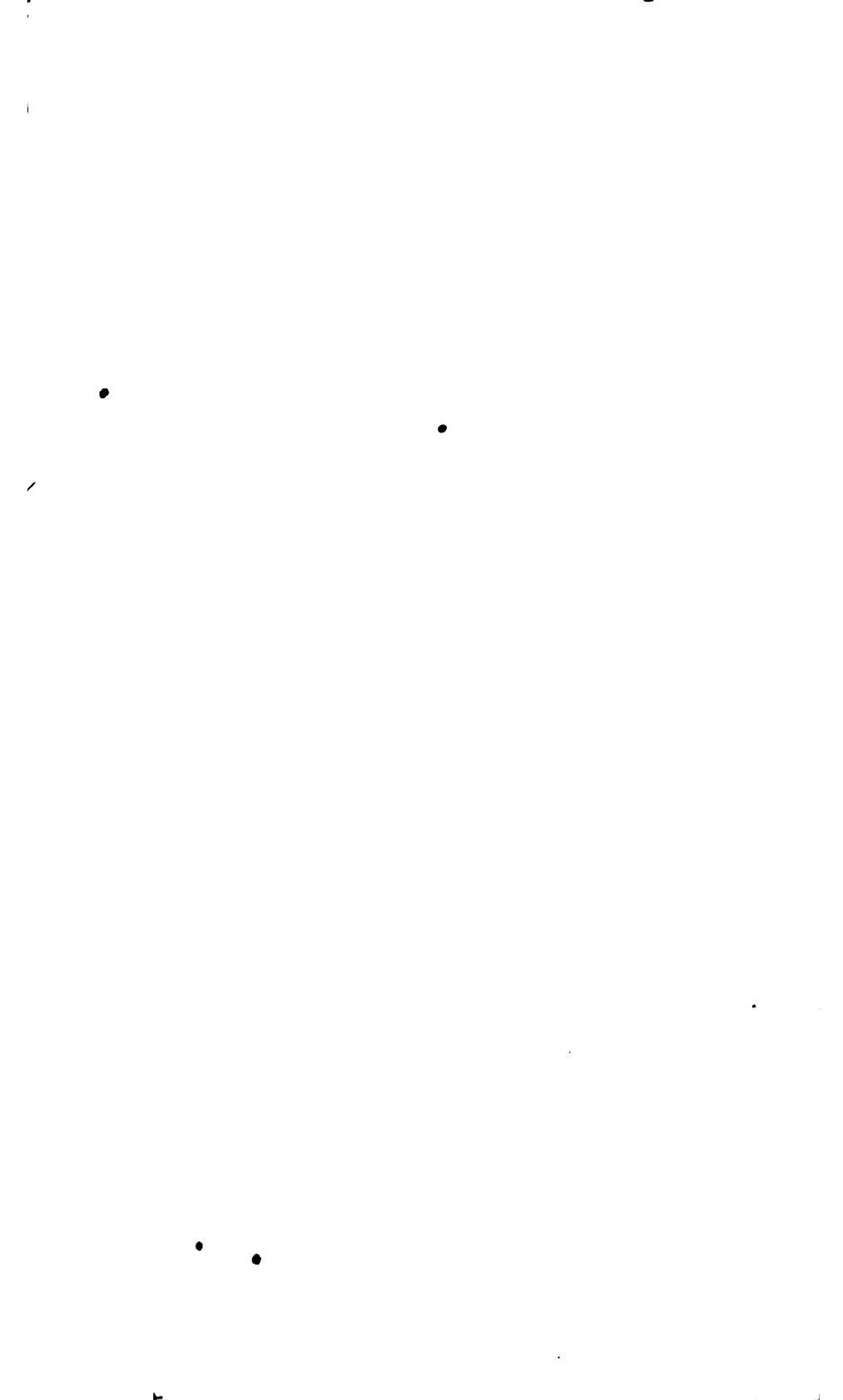
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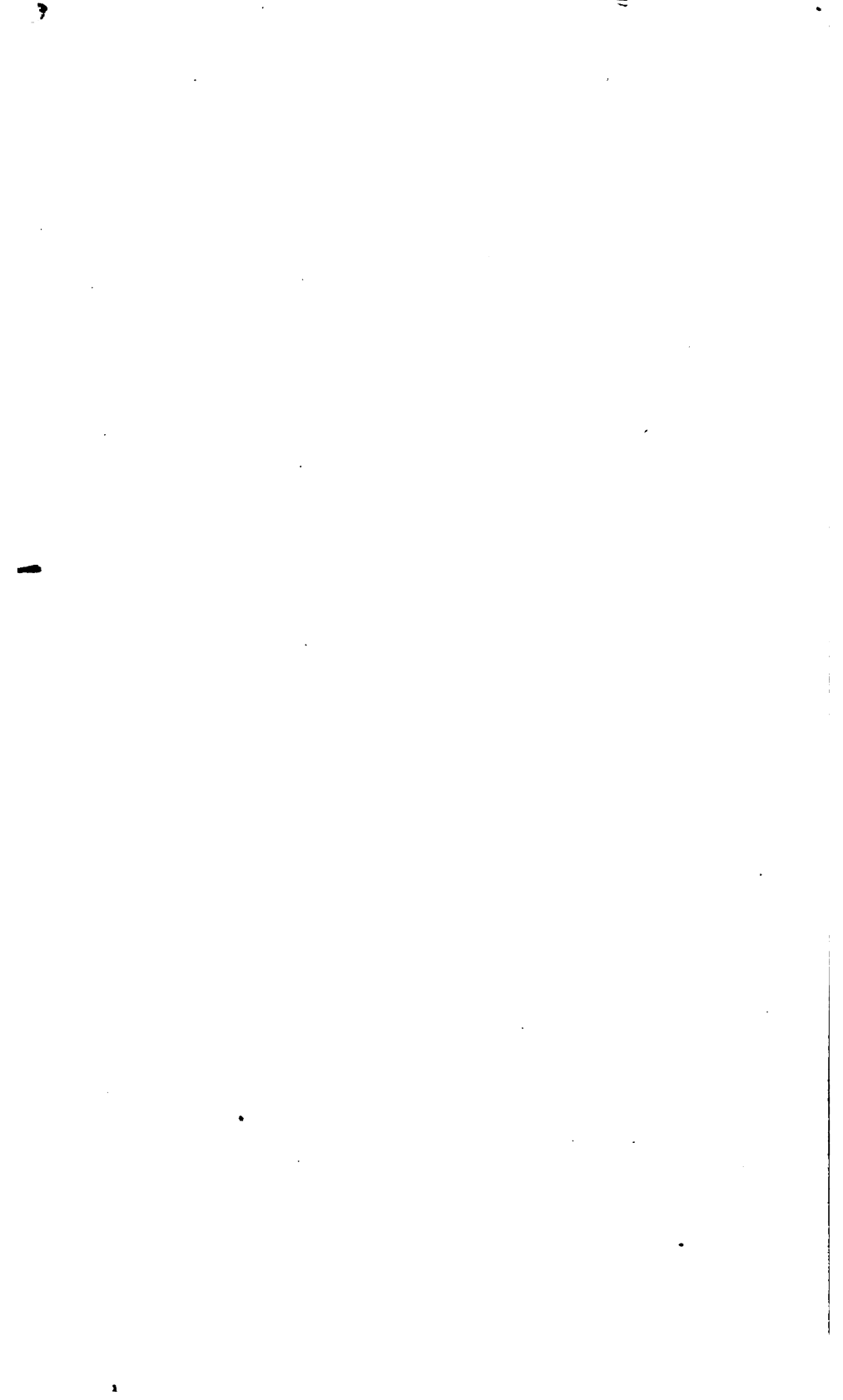
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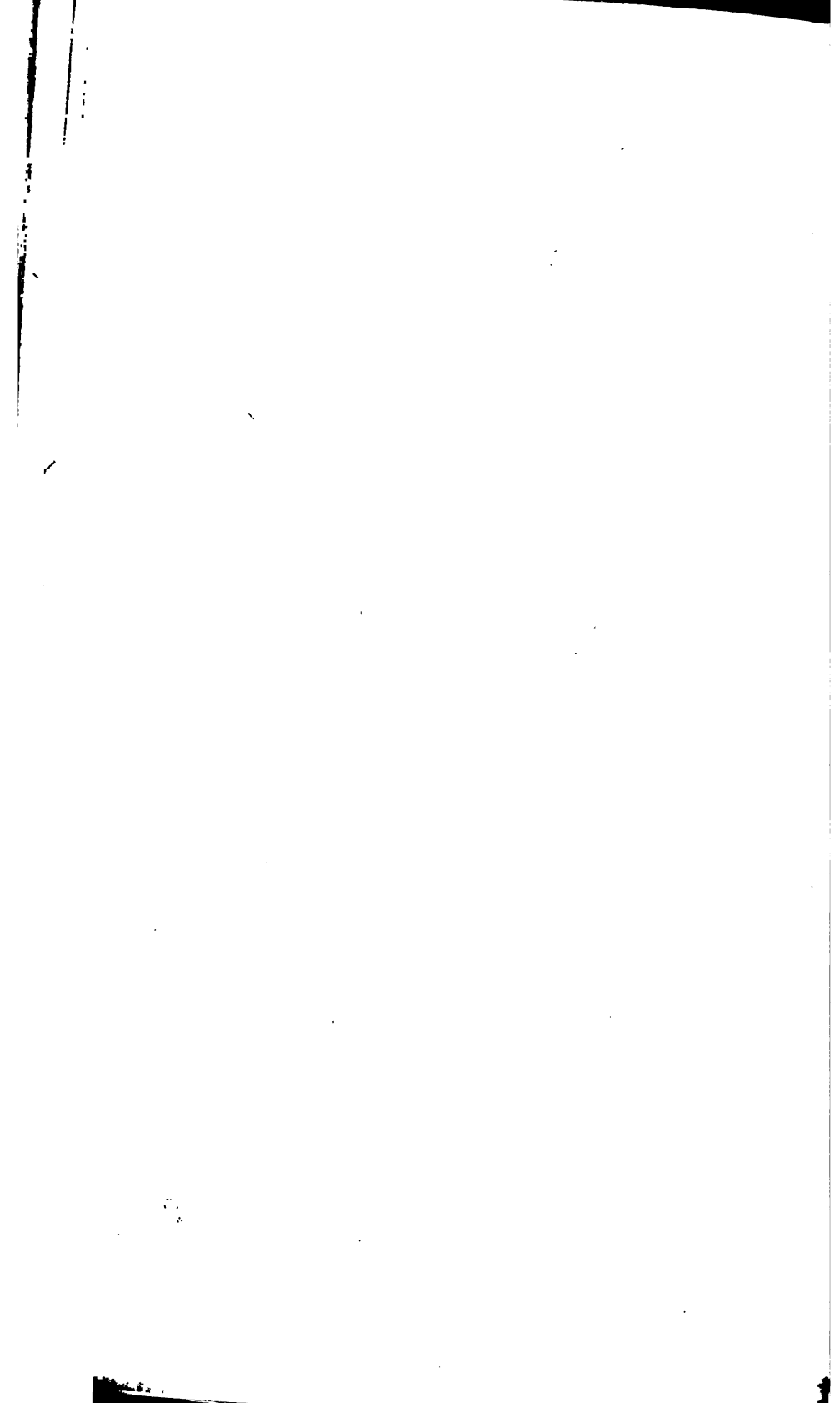


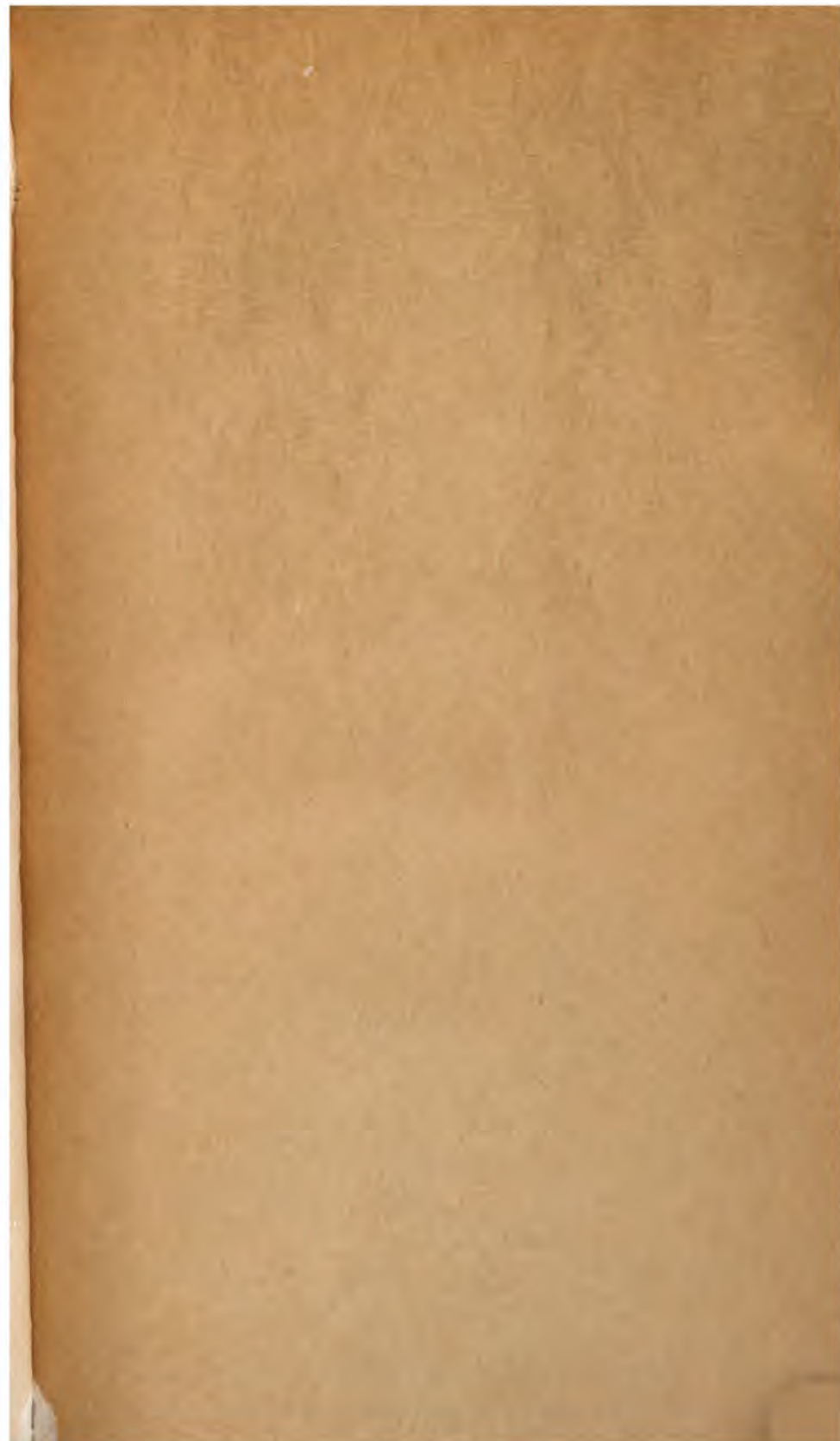


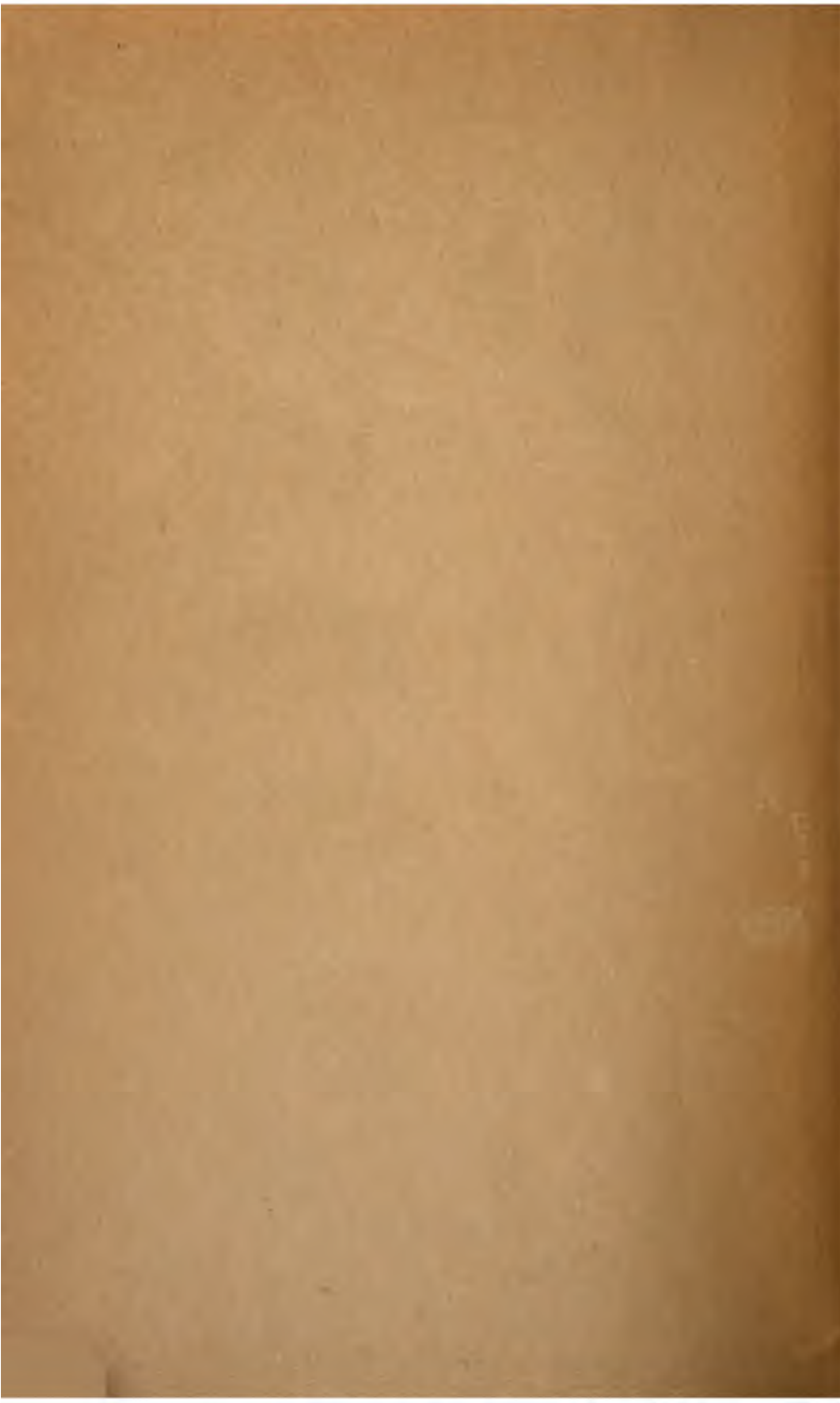












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